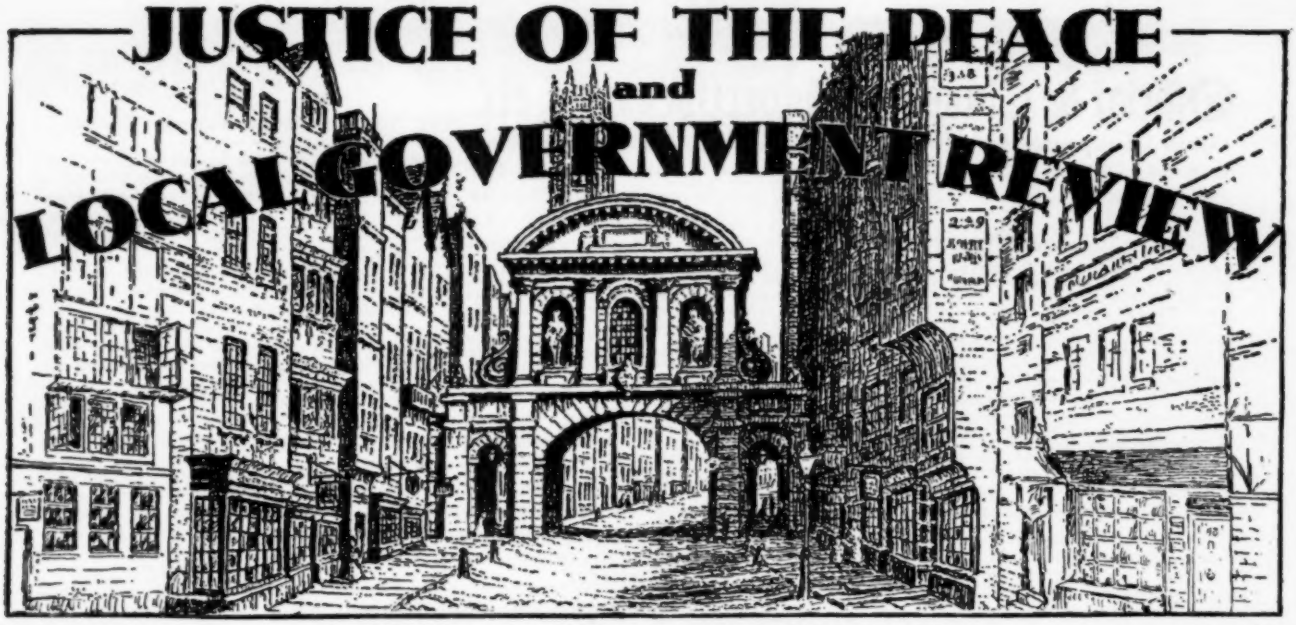
JUSTICE OF THE PEACE and LOCAL GOVERNMENT REVIEW



VOL. CXVII LONDON: SATURDAY, AUGUST 15, 1953 No. 33

CONTENTS

REPORTS

Official & Classified Advertisements, etc.

Official Advertisements (Appointments, Tenders, etc.), 2s. per line and 3s. per displayed headline. Classified Advertisements, 24 words 6s. (each additional line 1s. 6d.) Box Number, 1s. extra *Latest time for receipt* 10 *a.m. Thursday*

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NOTIFICATION OF VACANCIES ORDER, 1952

The engagement of persons answering these advertisements must be made through a Local Office of the Ministry of Labour or a Scheduled Employment Agency if the applicant is a man aged 18-64 or a woman aged 18-59 inclusive unless he or she, or the employment, is excepted from the provisions of the Notification of Vacancies Order, 1952. *Note :* Barristers, Solicitors, Local Government Officers, who are engaged in a professional, administrative or executive capacity, Police Officers and Social Workers are excepted from the provisions of the Order.

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BOROUGH OF BEDDINGTON AND WALLINGTON

Deputy Town Clerk

APPLICATIONS invited from Solicitors with Local Government experience for above appointment. Salary £845 rising to £1,055. Forms of application and further particulars obtainable from undersigned. Closing date September 7, 1953.

A. B. BATEMAN,
Town Clerk.

Town Hall,
Wallington, Surrey.

CITY OF NOTTINGHAM

Deputy Town Clerk

APPLICATIONS are invited from Solicitors, with local government experience, for the post of Deputy Town Clerk at a salary of £2,000 per annum.

Applications, with the names of two persons to whom reference may be made, must reach me in envelopes endorsed "Deputy Town Clerk" by the last post on August 31, 1953.

T. J. OWEN,
Town Clerk.

The Guildhall,
Nottingham.

COUNTY BOROUGH OF SUNDERLAND MAGISTRATES' COURTS COMMITTEE

Appointment of Second Assistant Clerk

APPLICATIONS are invited for the above appointment. Applicants must have a thorough knowledge of the work of a Justices' Clerk's Office, be capable of taking a Court when required, and should be competent shorthand-typists.

The salary will be £595 per annum, rising to £645 per annum.

The appointment is superannuable, and the person appointed will be required to pass a medical examination.

Applications, stating age, qualifications and experience, together with the names of two referees, must reach the undersigned not later than August 22, 1953.

J. P. WILSON,
Clerk to the Justices.

Sessions Courts,
Gillbridge Avenue,
Sunderland.
July 25, 1953.

STAFFORDSHIRE COMBINED PROBATION AREAS

Appointment of Full-time Male Probation Officer

APPLICATIONS are invited for the appointment of a Full-time Male Probation Officer in the area of the Staffordshire Combined Probation Committee.

The appointment will be subject to the Probation Rules and the salary will be in accordance with the Rules together with a travelling allowance. The salary will be subject to superannuation deductions and the selected candidate will be required to pass a medical examination.

Applications, stating age, qualifications and experience, and accompanied by copies of not more than three recent testimonials, must reach the undersigned not later than Saturday, August 22, 1953.

T. H. EVANS,
Clerk of the Peace.

County Buildings,
Stafford.
August 5, 1953.

TRENT RIVER BOARD

Appointment of Assistant Solicitor

APPLICATIONS are invited from admitted Solicitors for this appointment at a salary in accordance with Grade IX of the National Scale (£815 to £935). The commencing salary on this scale will be fixed according to applicant's experience.

There are prospects of promotion to higher grades and there are opportunities for experience in a variety of branches of work (e.g., *Parliamentary, conveyancing, compulsory purchases, advocacy in the Courts and at Public Inquiries, common law and other Actions and administrative Committee work*).

Previous experience with a local authority not necessarily essential. The appointment is subject to the Local Government Superannuation Acts.

Applications, containing information as to age, qualifications and experience, accompanied by copies of two testimonials, should be sent to the undersigned, not later than Friday, September 4, 1953.

JOHN HIRST, Solicitor,
Clerk of the Board.

206, Derby Road,
Nottingham.

WEST SUSSEX MAGISTRATES' COURTS COMMITTEE

Appointment of Justices Clerk's Assistant

APPLICATIONS are invited for the appointment of a whole-time Assistant to the Clerk of the Justices. Applicants must have had considerable magisterial experience, be competent shorthand-typists, capable of issuing process, keeping the accounts, and taking an occasional second Court.

The appointment will be made on the salary scale £495×£15—£540 per annum. Commencing salary according to experience.

The appointment which is superannuable will be subject to one month's notice on either side and the successful candidate will be required to pass a medical examination.

Applications, stating age, qualifications and experience, to be accompanied by three recent testimonials, should be addressed in the first instance to Francis F. Haddock, Clerk to the Justices, 14 Carfax, Horsham, to reach him not later than September 5, 1953.

T. C. HAYWARD,
Clerk to the Magistrates' Courts Committee.

County Hall,
Chichester.

COUNTY BOROUGH OF SOUTH SHIELDS

Second Assistant Solicitor

APPLICATIONS are invited for this appointment from young Solicitors trained either in the Local Government Service or in private practice. The salary will be within the Grades A.P.T. Va-VII.

Applications, with the names of two referees, should reach me by Monday, September 7, 1953.

HAROLD AYREY,
Town Clerk.

Town Hall,
South Shields.

Justice of the Peace
and
Local Government Review

[ESTABLISHED 1837.]

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NOTES of the WEEK

Offensive Weapons

The Prevention of Crime Act, 1953, encountered considerable opposition when the Bill was debated in Parliament, and now that it has become law, cases arising under it are being subjected to some criticism, it being suggested that it interferes with the liberty of the subject and infringes the principle that the onus of proof is on the prosecution.

Recently, a man was convicted at Harrogate upon a charge of having in his possession "a certain offensive weapon—namely a pair of garden shears—without lawful authority or reasonable excuse." It was stated that the defendant told the constable who found him in possession of the shears that he intended to "bray" another man with them.

One important provincial newspaper, commenting on the result of the case, takes the line that if garden shears can be used as an offensive weapon, so can a cricket bat, a putter, a croquet mallet, a chisel, a hammer, or even a walking stick or an umbrella, and then proceeds to refer to the difficulty of obtaining "lawful authority." The editorial article concludes, "We are still of the opinion expressed when it was before Parliament that the Prevention of Crime Act (known as the 'Cosh Bill') was entirely unnecessary and that its provisions do nothing which could not have been accomplished before—except put another shackle on the liberty of the subject."

We cannot say that we share this view. It is well that the press and the public should be vigilant to detect and oppose unnecessary interference with liberty. This Act, however, seems to us well conceived and well drafted, so that while arming the police with useful power to deal with persons likely to commit violent crime, is not likely to cause inconvenience to well-intentioned and law abiding people.

"Offensive weapon" is defined as any article made or adapted for use for causing injury to the person or intended by the person having it with him for such use by him. Thus, a cricket bat is not an offensive weapon unless it is intended to be so used. If a man is seen in the street chasing another man and shouting that he will bash his brains out, and he is brandishing a bat, the bat is then an offensive weapon, and it will be for him to prove lawful authority or reasonable excuse for having it in the circumstances. Most men carry a penknife which is ordinarily far from being an offensive weapon, but it is quite capable of being so used as to bring it within the terms of the Act.

As to proving lawful authority or reasonable excuse, most cases will be simple enough. A soldier may carry a rifle with lawful authority and is not likely to be challenged. Many other people could show reasonable excuse for carrying articles that could be offensive weapons, and they are not likely to be challenged by the police unless their conduct gives cause to anticipate the commission of some offence. If the man with the shears had been walking quietly along the road he would almost certainly have escaped interference.

Crimes of violence have caused well justified alarm. The public looks to the police for protection, and Parliament has seen fit to entrust them with new powers. It is to be noted, however, that the power of arrest is accompanied by limitations which should safeguard ordinary, well behaved people.

Custody of Exhibits

In a recent case alleging want of cleanliness in a milk bottle, the defending solicitor asked for the bottle but, according to a newspaper report, was told by a sanitary inspector that it had been cleaned during the lunch break because of its offensive condition, and it had not been thought that it would be needed further by the court. The clerk said that should not have been done.

No doubt the learned clerk had in mind not only that the bottle might be required during the hearing, but also that it might be necessary to preserve it if there should be an appeal. It is the practice of most courts to retain exhibits throughout the hearing and thereafter until the normal time for appeal has expired, subject of course to any special directions that may be given by the court.

Forfeiture or Disqualification?

The suggestion made by the Archbishop of York that a dangerous driver should be made to forfeit his motor-car should, like every proposal designed to reduce the appalling number of road casualties, be carefully examined. To treat death and injury on the roads as inevitable and to do nothing about it is an indefensible attitude. Accidents there will always be, some of them unavoidable, but the present situation is so terrible that we ought to be alarmed by it and determined to explore every possibility of saving life and limb so as to turn the tide of increasing numbers.

The new proposal presents difficulties, undoubtedly, and those who support it must be prepared to deal with them. In the first place, it must be realized that to take away a man's car does not necessarily take him off the road. If he is a rich man he will just buy another. If he is not, he will suffer additional punishment because of his lack of means, which is not equitable. Moreover, the forfeiture could apply only to an owner-driver, since it would be hard on an owner to deprive him of his car because someone else, by committing an offence which the owner could not prevent, had rendered the car liable to forfeiture.

The man who has proved himself to be a danger on the roads, in many instances as the result of a number of convictions, ought to be prevented from driving. Surely the better way of seeing to this is by disqualifying him from holding a licence and imposing severe punishment if he defies the ban. Forfeiture

of the car, if it belongs to him, might prove a deterrent punishment, but would not be so certain a means of insuring that he kept off the road. We doubt the practicability of what is suggested, although we think it should be discussed.

We agree that excessive speed is by no means the only cause of casualties, but we also agree that it is an important factor, because the higher the speed the less margin of time in which to do anything to avert accidents.

Essex Weights and Measures Report

The fact that there is now more food available and in greater variety than for some time past is having its effect. In his latest report, Mr. F. W. Horsnell, chief inspector of weights and measures for the county of Essex, points out that there is now more opportunity for purchasers to select what they will buy and there have been fewer complaints respecting weight and quality during the period under review than at any time since pre-war days. He adds that while the number of inspections has increased, the number of offences has been lower.

What applies to food does not apply to fuel. The report states that the continued scarcity and high price of fuel has been one of the factors responsible for the persistent and continued short weight found in sales of this commodity; twelve *per cent.* of the bags of coal weighed proved to be deficient. It is noted, however, that members of the public are becoming more aware of the part they can play in checking deliveries, and are readier to seek the aid of the inspectors when they suspect short weight.

The modern inspector needs to be equipped with a great deal of specialized knowledge. Mr. Horsnell says that weighing and measuring appliances are becoming more and more complex in that it is a growing practice to incorporate with their mechanism not only means of calculating the price but also methods of automatically feeding the material to be weighed. Inspectors are required to be fully conversant with each type of weighing and measuring instruments in use for trade. Full details of these are circulated to the Inspectorate by the Board of Trade.

Kent Weights and Measures Department

The report of Mr. S. Strugnell, chief inspector of weights and measures for the county of Kent, not only contains a great deal of interesting information, but also makes some practical suggestions.

Mr. Strugnell points out that the Weights and Measures Acts do not ordinarily apply to the sale of coke, a statement which is borne out by the decision in *Fletcher* v. *Fields* (1891) 55 J.P. 502. In some districts it is dealt with by a local Act, but Mr. Strugnell suggests that a new weights and measures Act should deal with this matter of coke, since frauds are committed in relation to it, and not only in connexion with coal. In two cases of serious shortage in the sale of coke the police were asked to take proceedings, for larceny in one case, and for obtaining money by false pretences in the other.

Dealing with the sale of pre-packed food, the report states that the large containers which were by no means full have practically disappeared, but that housewives are now sometimes bewildered and perhaps misled by fractional statements of weight or measure. The report goes on:

"As the object of a declaration is to guide the purchaser it is suggested that articles under common names, such as sauces, custard powders, meat and fish pastes, salad creams, etc., should be packed in quantities of ounces or fluid ounces or aliquot parts of a pound or a pint and that fractions should be prohibited. A similar requirement has been in force for many years under the Sale of Food (Weights and Measures) Act, 1926, for a number of articles of food and the arrangement works well. . . . The whole question of weight and measure markings could be simplified by a standardization of quantities in pre-packed articles of food in everyday use which would put variations in price on a competitive basis in which quality and individual tastes could be the deciding factors to the detriment of confusing and variable statements of weight or measure."

Why Inspections are Desirable

Reports of inspectors of weights and measures generally testify to the honesty of most traders and show that the majority welcome inspections as a means of ensuring that their customers get full weight or measure. Prosecutions are by no means numerous, but of course there would be a temptation to the less scrupulous traders to give short weight or measure if the inspectors were not active.

In the Kent report there is an instance of the growth of a bad practice through want of inspection, a practice which became so well established that when inspection was resumed adulteration sometimes took place openly in the presence of the Inspector. When milk was in short supply and rationed it became customary to add hot water to a glass of hot milk, and this practice seems to have continued, so that the customer who asks for a glass of hot milk gets milk and water.

On the subject of inspections generally, the report says: "Nearly fifty years ago the Weights and Measures Regulations specified that weighing appliances in use for trade should be inspected at the place of use not less than once a year. Although the simple appliances in use in those days have mostly been replaced by modern, complicated weighing and measuring instruments, the need for such regular inspection is even more necessary now than then. This need is not because of increased dishonesty—most traders are above suspicion in this respect, but because traders do not, and cannot be expected to understand the mechanism of modern weighing machines. As this type of machine can become inaccurate without the error being apparent to the user, such inspections cannot ensure whole-time accuracy, but they do keep within reasonable limits the time during which an unjust weighing machine will remain in use. The modern complexity of weighing machines does not absolve a user from responsibility for accuracy. Shopkeepers are, therefore, always advised to make it a regular morning practice to place on the goods plate a weight equivalent to the chart indication and to have the instrument adjusted if the weight indication is incorrect. Although this is a very rough test it will generally indicate whether anything is seriously wrong. . . . The number of factories in the Administrative County has increased considerably during the last few years although in the main the increase is in the light industries. Practically every factory has one or more weighing instruments in use for trade and these machines the inspector is entitled to examine. Some works managers draw the line here and do not allow examination of the many weighing machines used departmentally and not for trade. Although this attitude saves the Department a considerable amount of work, it would appear to be a mistaken policy on their part to refuse the expert service to which they are entitled, as ratepayers, without additional charge."

Adoption Procedure

The London County Council is submitting evidence to the Departmental Committee on the adoption of children suggesting amendments in the law which are considered to be necessary. The volume of the work entailed in adoptions is shown by the fact that the council's officers act as guardian *ad litem* in about 1,000 cases a year. As child welfare authority the council supervises some 600 children who are awaiting legal adoption at any

one time. The council also itself arranges adoptions annually of about eighty children in its care. The council considers that the first and basic principle in child adoption work should be to safeguard and promote the benefit and welfare of the individual child. It is considered that adoption work calls for a very special kind of child care case-work necessitating particular skill, understanding and experience. The council hopes, therefore, that the time will come when all adoption case-workers will be trained people holding some special qualification in child care. Turning to another aspect of the matter, it is suggested that local authorities should be given additional powers enabling them to advise parents what is best for a child. The council would then have the opportunity and duty to consider what is best for a child and to advise the mother accordingly before she takes the practically irrevocable step of offering her child for adoption, either by direct placing or through a third party. On the matter of parental consent attention is drawn to the cases of *Hitchcock* v. *W.V. and F.E.B.* (1952) 116 J.P. 401, and in *re Kuzmicz* (1952) 117 J.P. 9, and the council thinks that it is illogical that a parent should be able virtually to evade all responsibility for a child and yet retain the right of refusing to allow him to be adopted; this is considered to be especially so if consent has once been given and is subsequently withdrawn without there having been any change in the parental circumstances. The council considers that this difficulty should be met by amplifying the power of the court of dispensing with parental consent by adding a requirement that, in exercising that power, the court must have regard to the welfare of the child. On other points, the council considers that s. 43 of the Adoption Act, 1950, should be amended to remove any limitations which might prevent a local authority from placing any child and acting as an adoption society in respect of any child who is suitable and available for adoption; that there should be power for the court to prescribe a longer probationary period than three months; that the rules as to domicile and residence should be amended; that ultimately all adoption placings outside the family should be made only by registered adoption societies or local authorities employing trained, qualified staff and that, if necessary, financial assistance should be given to the societies by local authorities to enable them to employ adequate number of suitably qualified staff.

Voluntary Closet Conversion

Section 47 of the Public Health Act, 1936, followed a generation of fumbling with what used to be called " privy conversion ". *Lumley's* note at p. 2357 of the new edition gives the history. The present section is better than its predecessors, though it is, like other sections in the Act, partly obscured by the unhappy definition of a " water closet " in s. 90. Subsection (4) is designed to encourage the owner of a building equipped with a " closet " which is a privy, an earth closet, or a water closet not falling within the definition of " water closet " in s. 90, to convert that closet voluntarily into a water closet as so defined, by enabling the local authority to pay, if they think fit, a proportion of the cost not exceeding the proportion which they would by subs. (3) have been obliged to pay if they had proceeded by way of a formal notice to him. Many local authorities, we are informed, have a standing resolution that they will pay the maximum contribution, which is half the cost, where an owner converts voluntarily, and the actual payment is then automatic, upon its being certified by the sanitary inspector or other appropriate official that the work has been done properly. This, however, does not seem right in principle, and certainly it is not what subs. (4) enacts. That subsection says that " where the owner . . . proposes . . . the local authority may, if they think fit, agree to pay to him a part, not exceeding one-half ". These words clearly mean that a decision on the facts of the particular case is to be reached; the maximum is not to be paid as a matter of course, and the decision how much to pay, if anything, is to be that of the council, or a committee exercising delegated powers. It would be wrong to allow an official to decide how much money should be paid. Also, the subsection contemplates that the decision shall be reached at the stage of the proposal—that is, before the work begins. If the owner chooses to embark upon it without knowing how much, if anything, the council will pay him, and they pay him nothing, he has himself to blame. On this point, however, we do not think public mischief would result from making a payment to an owner who had gone ahead without waiting for the council or committee to agree, if upon the facts they found that he had done so in good faith: he has, let us suppose, communicated with the surveyor or sanitary inspector who has told him: " If you do it, I will recommend that the council pay you ". The important thing is that the council shall not let it be supposed, either by property owners or by their own officials, that it lies within the province of the latter to determine whether public money shall be paid to private persons under the subsection.

Rating a Sewage Farm

As every reader of *Ryde* and *Lumley* knows, the artificialities of rating law were long ago increased by doctrines applied judicially to sewers. A further attempt in that direction was defeated in July before the Lands Tribunal, in the case of *Barking Corporation and Wand (Valuation Officer)* v. *London County Council*. We have to thank the town clerk for a full account of the case, which was heard by Sir William Fitzgerald, Q.C., chairman of the Tribunal; Mr. Erskine Simes, Q.C.; and Mr. J. L. Milne. The corporation were represented by Mr. H. B. Williams, Q.C., and Mr. C. E. Scholefield; the valuation officer by Mr. M. Lyell, instructed by the Solicitor of Inland Revenue; and the County Council by Mr. Rowe, Q.C., and Mr. G. D. Squibb. The opportunity for what the Tribunal decided to have been a piece of misplaced ingenuity was given by the provision made in Part II of sch. 2 to the Rating and Valuation Act, 1925, and S.R. & O. No. 1387 of 1926, for " land covered with water " to be treated more kindly than ordinary land. The London County Council contended, and succeeded in persuading the Southern Essex Local Valuation Court, that the London County Council's sewage works in the borough of Barking were " land covered with water," in so far as covered with an aqueous liquid (varying from four feet six inches to ten feet six inches in depth), consisting of effluent from the London sewers. With modern water carriage, and the copious use of water by modern urban populations, only about one *per cent.* of this effluent consists of solid matter, so there was a certain plausibility in the County Council's attempt to have the effluent called " water."

Evidence was given of analyses of the liquids in the various parts of the hereditament specified, and these showed that the proportion of solids in suspension and solution varied from 1·3 *per cent.* to ·11 *per cent.* Evidence was also given of the respective proportions of water and solids in the River Thames and in a number of other substances, ranging from hypodermic injections to vegetables of various kinds. The Tribunal did not consider that these analyses really helped them. The question to be asked was whether " the ordinary subject of the Queen using his own mother tongue in the ordinary sense," to quote the words of Lord Halsbury in *Hampton Urban District Council* v. *Southwark & Vauxhall Water Co.* [1900] A.C. 3; 64 J.P. 260 would describe these portions of the works as " land covered

with water." In so doing he would not be influenced by scientific analyses of the fluids but by their origin and general characteristics such as appearance and smell. The Tribunal was satisfied both from the evidence and from the view which it had of the works on June 5, 1953, that the ordinary person would not regard the fluids in question in this case as "water" but as "sewage."

The contents of the London sewers are received and treated on sewage disposal works and from appearance, smell, and general character would ordinarily be described as "sewage." During the hearing this description was used from time to time by the witnesses called on behalf of the County Council. The substance reaching the works is "sewage," and it remains "sewage" throughout the whole of its treatment at the works and when it has become the final effluent; there are changes in degree but the character remains the same. At no stage is it treated as being "water" nor is it used for any purpose for which "water" is used, such as at a dock. The Tribunal therefore found that the portions of the hereditament in question were not "land covered with water" within class 3 of Part II of sch. 2 to the Rating and Valuation Act, 1925.

Reorganization of Local Government

The Urban District Councils Association at its recent annual meeting approved by a large majority the recommendations agreed by the representatives of the four local authorities associations for the reorganization of local government to which we have referred previously. The resolution was not, however, carried until a number of amendments had been moved on various points. The chairman (Mr. J. Bulman) in opening the discussion, said the report was not an uneasy compromise but a series of proposals which have the solid backing of all the signatories and the executive council of the urban district Councils Association. He emphasized the view that local government is not a delinquent needing reform, nor is it so incapable of meeting the needs which the past has shown to be basically sound, but capable of modification and development without violent upheaval. He suggested that if it can be accepted that the shape of local government now proposed is right an examination of local government finance can proceed on a sound footing later. Some of those who thought that the matter should be considered at a future meeting before final approval were concerned to know first what would be the attitude of the association of municipal corporations. Others who opposed the scheme did so because so many urban districts would cease to be separate units if legislative effect is given to the proposals, and some were concerned on the question of delegation by the county council.

The Fluoridation of Water Supplies

The Government, on the advice of the Medical Research Council, sent a mission of two dental experts, a scientific officer and a research lecturer to the United States and Canada to study the fluoridation of domestic water supplies as a means of reducing the incidence of dental caries. A very detailed report has been made and published giving the results of the investigation. Incidentally, we notice that the cost of the tour covering various centres in the United States and Canada over a period of three months or of the report is not stated. We hope that those who are experts on the subject (which we do not claim to be) will consider that the expense was justified. In order that the investigation might be comprehensive it was considered necessary to attempt an evaluation of the dental results obtained from fluoridation; to consider possible effects of fluoridation upon the general health of the community; to give attention to possible repercussions on industry; to make a detailed study of the technical processes involved; and to study the researches in progress. There was ample evidence that fluoridation has resulted in a steady reduction in caries particularly among children in the younger age groups. Recently, however, fluoridation has been adopted in many communities in the United States purely as a public health measure. Some ninety million people in 8,400 communities have a piped water supply, of which, in December, 1951, 159, totalling over four million people, were adding fluoride to their supplies. It is estimated that in the near future forty *per cent.* of the population on piped supplies will be receiving fluoride. In discussing the public reaction to fluoridation policies in the United States it is explained that the Federal Public Health Service does not exercise as much direct control over policy as the Ministry of Health in this country. In local matters, each State is virtually autonomous, and autonomy extends to local communities within each State. A proposal to introduce fluoridation may give rise to considerable public discussions involving press campaigns, lectures, films, radio talks and other means of arousing interest and spreading information. Finally, a meeting is held at which the public votes directly for and against the project. In conclusion, it is recommended in the report that as an experiment fluoride should be added to the water supplies of some selected communities so that the results may be fully studied.

Monopolies and Restrictive Practices Commission

This Commission has made six reports during the last five years and has studied fourteen separate subjects. Action on any recommendations made by the Commission is a matter for the production department concerned. In the main, the views of the Commission have been accepted and have been implemented either by departmental order or by agreement between the department concerned in the industry upon which the report was made. The government has introduced a Bill dealing with the administration of the Commission because they are anxious that it will at all times be possible to obtain the right person for appointment as chairman, and that reports should be made with greater frequency. In introducing the Bill in the House of Commons, the president of the Board of Trade (Mr. Peter Thorneycroft) paid a tribute to the work of the present chairman and pointed out that under the scheme the chairman must be appointed for a period of not fewer than three and not more than seven years subject to the power of the Minister to extend the appointment up to a maximum of twelve years. Under the Bill it is sought to make the position of the chairman comparable to that of a National Insurance Commissioner or a County Court Judge. The chairman or deputy chairman will, if the Bill is passed, receive a pension if he has served for at least five years and is not under the age of sixty-five unless his retirement is due to ill-health. The Bill will also enable the Commission to sit in more than one group if this is considered to be necessary in order to accelerate its work. Power is accordingly taken to appoint up to twenty-five members.

Co-operation in the Health Service

We have referred previously to the need for co-operation between those responsible for the local health services and the hospital service and between medical practitioners and both these services. This is clearly the general view of the Minister of Health (Mr. Ian Macleod) who, on more than one occasion, has urged the need for co-operation as he did when speaking recently at a sectional meeting of the British Medical Association. When the new hospital scheme was inaugurated there was a

strong feeling that a general medical practitioner should have the opportunity of access to any hospital to which his patient was admitted. This was more customary previously in voluntary hospitals than in local authority hospitals and it seemed that there was the likelihood of the local authority practice being generally extended and continued. Mr. Macleod, however, expressed the view, which would no doubt be well received by his audience, that the general medical practitioner should be entitled, without question, to the use of the X-ray and pathological services at the hospital. In commenting on the last report of the Medical Officer of Health for the West Riding, we noted the complaint that the school medical department was not always informed when a child was discharged from hospital, even although it might be necessary for treatment to be followed up through the local health service. It would seem to be clearly reasonable also that the patient's own doctor should be informed when a patient is discharged and that this is particularly important in the case of elderly patients. Mr. Macleod told the meeting that in his view this practice should be followed. Referring to the local health service, Mr. Macleod emphasized the need for close co-operation between health visitors and general medical practitioners and speaking of the need to keep hospital beds clear of patients who need not be in hospital, he expressed the opinion that the general practitioner should have full opportunitities for obtaining the advice of consultants not only by the patient going to hopsital for examination but by the consultant visiting the patient in his home.

Preserving Amenities in the Lake District

The first annual report of the Lake District Planning Board is of interest as showing the action which can be taken, without considerable expenses, to prevent spoilation of a beautiful part of the countryside. This has only been possible by the county councils concerned agreeing that their staffs and particularly their planning officers shall be available to the Board. One of the most important problems which it was necessary for the Board to consider was as to the degree of control which should be imposed on owners wishing to develop their land and as to the type of buildings which might be erected. As far as possible the Board has avoided making development expensive, but sometimes extra cost must be incurred by using local traditional materials for building new houses so that they may tone in with the old buildings. The Board had more difficulty with government departments than with private owners. Surely when Parliament passed a measure dealing with national parks with a view to the preservation of the amenities of the countryside the Post Office should accept the views of the planning authority and not erect unsightly structures, such as galvanized iron telephone posts and asbestos roofed telephone exchanges. The Board has asked, therefore, that the policy of government departments in erecting structures in national parks contrary to the views of the responsible planning authorities should be considered by the Cabinet with a view to directions being given to the departments concerned.

The control of camping sites and the type of vehicle or structure to be used on these sites is a matter of prime importance. The Board agrees that whilst there should be every opportunity for campers and caravan users to stay in the district they should not use land which will interrupt the enjoyment of others such as by obstructing the landscape. The Board has therefore encouraged the provision of properly arranged and equipped sites and in the case of isolated tents and caravans has required them to be screened and made as unobtrusive as possible.

SPECIAL OCCASION FOR THE CONVEYANCE OF A PRIVATE PARTY

By ERNEST WURZAL, Solicitor (Hons.)

The words " special occasion " in the proviso to s. 61 (2) of the Road Traffic Act, 1930, have been the subject of much litigation. The cases were dealt with in some detail at 115 J.P.N. 775.

A brief summary for the new reader may be of benefit.

By s. 72 (1) of the Act of 1930 a stage carriage or express carriage required a Road Service Licence.

Section 61 (2) excluded a journey for the conveyance of a private party on a special occasion (even though separate fares were paid by the passengers) from the classification of stage or express carriage and, therefore, no Road Service Licence was necessary.

In *Victoria Motors (Scarborough) Ltd. and Another* v. *Wurzal* [1951] 1 All E.R. 1016; 115 J.P. 333, it was held that not only must it be special occasion, but also the conditions set out in s. 25 (1) of the Road Traffic Act, 1934, must be fulfilled.

The court gave examples of journeys which would be special occasions, *viz.*, a race meeting, a public gathering, an exhibition, a day's excursion, a Sunday School party, a Mothers' Union party, and a dance. They also contrasted occasions of a " general " or " ordinary " description with occasions which were " special."

Now has come a further decision by the Divisional Court in *Wurzal* v. *Dowker* [1953] 2 All E.R. 88; 117 J.P. 336, which in certain respects puts us back where we were before the decision in *Victoria Motors (Scarborough) Ltd. and Another* v. *Wurzal, supra.*

The journey must still be a " special occasion " *and* the conditions of s. 25 (1) of the Act of 1934 must also be fulfilled. That is unaltered. It is the vexed question of what is a " special occasion " which looms up before us once more.

In *Wurzal* v. *Dowker, supra,* seven informations were preferred alleging that the respondent on each of seven Saturdays unlawfully permitted two vehicles to be used as express carriages in contravention of s. 72 of the Road Traffic Act, 1930, *i.e.*, without Road Service Licences. The journeys were to take members of a club on fishing trips. The sole question was " special occasion."

The Court held it was bound by the case of *Miller* v. *Pill* (1933) 97 J.P. 197, which was not brought to the notice of the Court in *Victoria Motors (Scarborough) Limited and Another* v. *Wurzal, supra,* and held that none of the journeys was a " special occasion " and, indeed, the frequency of the journeys, on any view of the meaning of " special occasions," would, in any event, have forced the Court to hold the offences had been proved.

In *Miller v. Pill, supra,* the Solicitor-General contended that "special occasion" had a restricted meaning, *i.e.*, " an occasion special to the whole locality or to the public " and *not* " an occasion special to the private party such as a day at the seaside." The Court agreed and Humphreys, J., said :

" It may be very difficult to decide in particular cases whether a vehicle is used on a ' special occasion '. . . . The expression ' special occasion ' refers to something more than the views and intentions of the members of the party and points to that which can be described as a special occasion in the locality which was the object of the journey being undertaken . . . a ' special occasion ' within the meaning of subs. (2) must be a special occasion occurring at the place which is the object of the excursion . . . and it is not enough that it should be a special occasion from the point of view of the persons forming the private party."

Parker, J., in *Wurzal* v. *Dowker* pointed out that unless the words in question [" special occasion for the conveyance of a private party "] had the restricted meaning contended for by the Solicitor-General in *Miller* v. *Pill*, the Court, in *Wurzal* v. *Dowker*, could not have upheld the conviction.

The other learned Judges agreed with Parker, J., and Lord Goddard, C.J., added :

" I regret that in dealing there [*Victoria Motors* (*Scarborough*) *Ltd. and Another* v. *Wurzal*] with what could amount to a special occasion I gave illustrations, some of which I now see could not be so regarded in view of the decision in *Miller* v. *Pill*. It seems that a day's excursion, a Sunday School or Mother's Union party, cannot be treated as special occasions so long as that decision stands, and we cannot overrule it. It is only right that I should take responsibility for having misled the Justices by the illustrations I gave *per incuriam*. But I may, I hope, be permitted to say with all respect that I feel great doubt about the decision in *Miller* v. *Pill* and it is apparent that Mr. Justice Avory, who was a member of the Court, also did, though he did not dissent. . . ."

" The second proviso [s. 61 (2) of the Road Traffic Act, 1930] deals with a private party who hire a motor coach for a special occasion and the stringent provisions of s. 25 of the Act of 1934 must be satisfied before the party can be regarded as private. . . ."

" From a common sense angle I think most people would say that a village school treat was a special occasion, especially in the lives of those attending it. The result of *Miller* v. *Pill*, however, seems to be that if a treat were planned to a neighbouring seaside town and was fixed for a day on which a statue or a drinking fountain was to be unveiled as a memorial to a deceased Mayor or Member of Parliament, providing the children were obliged, as part of their outing, to attend this dismal festivity the treat would be a special occasion, but otherwise it would not."

At p. 775 of 115 J.P.N. I quoted from Humphreys, J., in *Miller* v. *Pill* and confessed to some difficulty in understanding that decision. This is borne out by the strong doubts now expressed by the learned Judges in *Wurzal* v. *Dowker*.

However, my task here is to explain the present position arising from *Wurzal* v. *Dowker*, *viz.*,

1. The journey must be a " special occasion " *and* the conditions of s. 25 of the Act of 1934 must be fulfilled.

2. " *Special occasion* " means :

(*a*) an occasion special to the whole locality or the public;

(*b*) something special occurring at the place which is the object of the excursion.

3. " Special occasion " does *not* include :

A day's excursion, a Sunday School and a Mothers' Union party and in *Victoria Motors* (*Scarborough*) *Ltd. and Another* v. *Wurzal* the Court erred in saying they were special occasions.

4. It is *not* a special occasion if it is only special from the point of view of the persons forming the private party.

5. The test of whether it is a " general " or " ordinary " occasion as opposed to a " special occasion " is not sufficient. The test is as laid down in *Miller* v. *Pill*.

There the matter rests for the time being, but it certainly should not be allowed to do so.

If Parliament had *Miller* v. *Pill* in mind when s. 25 (1) of the Act of 1934 was passed then one is driven to the conclusion that those seven conditions were intended by Parliament to be definitive of " special occasion," but the words used by the draftsman in the preamble to s. 25 (1) did not effect that intention and instead *added* the seven conditions to the proviso to s. 61 (2) of the Act of 1930.

" When s. 25 (1) of the Act of 1934 was passed Parliament must be taken to have had in mind the principal enunciated in *Miller* v. *Pill*, and if it had been desired to amend s. 61 (2) of the Act of 1930 plain words to that effect would surely have been used. Applying the principle above referred to the facts of this case it is plain that on no Saturday was the vehicle in question used on a special occasion." (*per* Parker, J., in *Wurzal* v. *Dowker*).

Unfortunately, if Parliament *did* intend to clarify " special occasion," plain words were not used.

The Council of the Law Society has submitted a Memorandum to the Departmental Committee on Parts IV and V of the Road Traffic Act, 1930, under the Chairmanship of Mr. Gerald Thesiger, Q.C.

They approve the principle established in the case of *Victoria Motors* (*Scarborough*), *Ltd. and Another* v. *Wurzal* but add :

" Until the phrase ' special occasion ' is defined by statute, the practical effect of that decision is to deal a death blow to private hire, since earlier decisions have limited ' special occasions ' to those special to the locality visited and not to the party travelling. The Council, therefore, recommend that the proviso to s. 61 (2) of the 1930 Act and s. 25 of the 1934 Act be repealed and re-enacted in a substantive form on some such lines as the following :

A vehicle used for the conveyance of a private party on the occasion of a race meeting, public gathering, or other like special public event or of an annual or other outing of a club or of any private social sporting or other gathering or event or on any other like special occasion (whether public or private) shall not, for the purposes of s. 61 of the Road Traffic Act, 1930, be deemed to be a vehicle carrying passengers for hire or reward at separate fares by reason only that the members of the party have made separate payments which cover the conveyance by that vehicle on that occasion, where the vehicle is used on a journey in relation to which the following conditions are satisfied :

[The remainder of the clause will reproduce paras. (*a*) to (*g*) of subs. (1) and subs. (2) to (4) of s. 25 of the Road Traffic Act, 1934.]"

I particularly desire to make it clear that I do not seek to criticize those recommendations even though I do not wholly agree with them. We are at least *ad idem* in wishing for some clear definition of " special occasion."

I endorse the view of the Law Society that " special occasion" must be defined by statute and it is to be hoped the report of the Departmental Committee will lead to such a statutory definition as will put an end, once and for all, to any doubts as to the meaning of " special occasion."

It may be too much to hope also that any statutory re-enactment will be so drafted as to be easily understood by the layman as well as the lawyer.

The organizers of the village school treat or the Mothers' Union party should be left in no doubt as to whether they are committing an offence. Plain words are essential now.

CHIEF CONSTABLES' ANNUAL REPORTS, 1952

THE POLICE CAREER—TRAINING AND DUTIES

(*Concluded from p. 512, ante*)

The Exchequer, in effect, controls police finance ; it ensures that a realistic economic balance is maintained and the Exchequer may offer strong objection to the expansion in establishment as suggested. There is a way, however, of lightening in another direction the financial load. Duties are now being done by constables that could be as well performed by men of lesser status than constables and engaged at a lower scale of pay. A great amount of time is taken up, to the detriment of police work in general, particularly in cities and towns, in marshalling traffic, prevention of congestion of highways, in traffic pointsmen, patrolling areas to maintain the free flow of vehicles, duty in the vicinity of schools and in all the phases incidental to the presence of vehicles on highways. All these, except motor patrol, could be done by men designated Auxiliary Traffic Reserve. There would be a truly astonishing degree of relief afforded beat constables by then freeing large numbers of policemen for the work that is rightly theirs : the protection of life and property ; the prevention of crime and the detection of offenders.

Another vista would be open by creating this body of men, probationers in the regular force who during their first two years of service are found not to be of the type for constableship could, instead of being dismissed, be considered for transfer to the Auxiliary Traffic Reserve. The scheme lends itself to further useful development : the few members of the regular force who, for one reason or another become incapable of continuing, may be offered engagement. Unfit and sometimes unsuitable men now have either to be allowed to remain or be required to resign. The Reserve should be officered by regular police and this would offer scope for further appointments for ambitious and deserving regulars.

Provision applies in police regulations for the transfer of individuals from one force to another, with official approval, permanent transfer that is. The practice may with advantage be encouraged of transferring men and women, especially the higher ranks, for temporary periods. The town officer may learn much from a tour of duty with a county force and *vice versa*. Senior officers would gather experience and broaden their outlook by dealing with people, problems and places outside the normal confines of their own jurisdiction. There is, unfortunately, still a too narrow fixity and outlook amongst many seniors in the same, due to no fault other than the permanence of a local appointment.

Some heart-searching ought to be done, and at once, by the authorities, to remedy the defects in the service, if it is ever to provide a sound and suitable career, and it must somehow be made to conform more closely in formation to the services of the Crown, in which families for generations follow their forebears. A carefully prepared programme dealing with the type of recruits to be sought, an appropriate training scheme and a hope of career-reward, could secure for the police a father-to-son continuity of service.

The chief constable of Northamptonshire reports that fifteen sergeants and constables have had special training during the year at the headquarters of other forces, in detective work, finger prints, photography and motor driving. Fifty-seven probationers have taken intermediate and final refresher courses at a District Training Centre. This is in addition to the training programme arranged within the force. One superintendent and two inspectors went to senior courses for selected personnel at the Police College. " Considerable progress has been made with the training of members of the Special Constabulary, so much that it has been found necessary to arrange lectures each week. A good deal of the training is on the practical side, *e.g.*, foot and motor patrol, etc. . . ."

" As the complexities of modern life have gradually developed," writes the chief constable of Birkenhead, " . . . so inevitably, legislation both in the form of Acts of Parliament and Statutory Regulations with most of which the police are intimately concerned have increased inordinately, with the results that the range of knowledge expected of a constable has become so wide that his three months' probationary training can only be regarded as a foundation upon which to build further knowledge. Additional courses . . . and a refresher course at the Training Centre are essential if a constable is to be properly instructed in his basic duties. . . . It is unfair to expect a detective to discharge his duty properly unless he has had the benefit of three months' concentrated specialized training in detective work and procedure. . . . As if all these necessary abstractions from effective police strength were not enough, civil defence training in its several branches now involves many hours of attendance at lectures and demonstrations. . . . It seems to me, therefore, that this is a matter which should receive the close attention of your committee if and when the authorized strength comes to be reviewed at some future date. . . ."

All recruits in Bradford on return from the District Training Centre underwent a course of local instruction. They subsequently took a first and second refresher course, each of a fortnight's duration at the District Centres. " A course of lectures in Advanced Law has been conducted locally by the University of Leeds, whilst the local Education Authority have provided instruction in elocution and public speaking."

" Compulsory courses for all members with less than five years' service have been run and I am convinced that much headway has been made," remarks the Dudley report. A course of home study is also carried on during winter months. Hastings police received instruction during 1952 in Judo and unarmed combat in addition to the normal police curriculum. " Periodical courses of fourteen days' duration are held within the force for experienced constables," says the chief constable of Bournemouth, " the aim being that after completion of probation each constable should attend a course of this nature every three or four years." In the Blackburn force, due to the amendment of the Police Regulations, which now makes it necessary for promotion examinations to be held annually, lectures are given to junior and senior members . . . who are desirous of presenting themselves for examination."

The chief constable of Leicestershire and Rutland emphasizes : " In the police service there are two main aspects of human relationships—relations within the service itself, between its members and relations between members of the service and the public whom they serve. The Job Relations Programme (of the Ministry of Labour and National Service) gives sound guidance to supervising officers in the art of " man management " and helps towards a better understanding of human problems and their solution. With this better understanding and better handling of men which results, many problems are prevented from arising, and those which do arise are handled more ably. I have been so impressed by the course that I arranged for the force training officer to attend a Ministry of Labour Trainer's Course in Job Relations and Job Methods and he is now qualified

to instruct members of the force in these subjects. Two sergeants from headquarters attended a "Follow-up" course at the Ministry of Labour, Leicester."

At Middlesbrough: "Both men and women spend a period attached to specialized departments during the early part of their service. This serves the double purpose of giving young police officers an insight into the work of the departments and the resources available in their daily work, and it enables senior officers of the departments to assess young officers' ability and suitability for possible transfer to departments when vacancies occur." In his comments regarding the training programme, the chief constable of Liverpool says: ". . . twenty-one Colonial police officer cadets and eleven police college students were attached to the force for periods of six to ten days."

"At the request of the chief constable in this district," writes the chief constable of Exeter, "with the approval of the Home Office and with the co-operation of the Principal and staff of the University College of the South West, I organized, during the Easter recess, a further course of refresher training for police sergeants from the forces in the South Western District. The course, which was the fifth successive one, was attended by fifty sergeants, including four from Birmingham and two from Bournemouth and the City of London. . . ."

In the comments on training and education of members of the force it appears that in Northampton inter-departmental conferences are held. "The monthly discussions between members of all departments of the force continue to be held and conconsiderable benefit is derived by all concerned. Aspects of police duty are examined and discussed, views are expressed and suggestions made, all of which promotes better co-operation between the various departments and between the administration and the operational."

In Kent 319 members attended courses at Headquarters; courses attended by twenty cadets were also held. "One hundred and one members of the C.I.D. have now attended detective training courses at Home Office training establishments. Many visits were made by the training staff to various stations in the county giving lectures illustrated by film strips to special constables." The chief constable of Sheffield reports: "In the recruitment of personnel during the post-war years it has not been practicable to insist on the very high standard of educational attainment which had previously been possible. During the early months of 1952 arrangements were made for a series of classes to be held on the basic principles of English grammar and spelling. The instruction was given by a qualified member of the staff of the local education department. Twenty-seven probationers attended the course and the instruction they received led to a marked improvement in their report writing." In Coventry "Members of the force receive pre-examination lectures in connexion with promotion examinations and in addition officers were given First Aid instruction to assist them in taking further examinations in First Aid."

THE MODERN RANGE OF FOOD AND DRUGS WORK

[CONTRIBUTED]

More than a year ago, and at frequent intervals since then, the Minister of Food has assured the House of Commons that a Government Bill to amend the Food and Drugs Act, 1938, would be introduced as soon as Parliamentary time became available. Meanwhile, suggestions intended to receive the Minister's consideration have been numerous.

A FOOD ACT WITHOUT DRUGS ?

Among such proposals is a somewhat revolutionary scheme for removing drugs entirely from the scope of the principal statute controlling the sale of food. This suggestion was first made in the *Pharmaceutical Journal* of August 30, 1952, in a reasoned article by Mr. R. A. Robinson, formerly Public Control Officer for Middlesex. He pointed out that whereas the Minister of Food exercises control over the action taken by Food and Drugs Authorities when food is advertised or sold under false or misleading labels, those authorities have full discretionary powers to prosecute in relation to false or misleading labels or advertisements of drugs. Also under the Labelling of Food Order, 1953, it is necessary when a claim is made in an advertisement or on a label that an article of food contains vitamins or certain minerals (calcium, iodine, iron,[1] phosphorus) that the proportions of vitamins or minerals shall be disclosed not only on the label but in the advertisement as well, as the case may be. This Order, however, does not apply to drugs which are not also foods and there is no offence, therefore, in recommending medicines in advertisements without any disclosure of composition being made in the advertisement. Moreover the analysis of samples contemplated by this Order or the old Sale of Food and Drugs Act did not include biological determination such as that necessary today if the "nature or substance or quality" of the vast variety of modern pharmaceutical products are to be determined with accuracy. Sampling officers have always found it difficult to find select drugs which can usefully be purchased for analysis.

In Mr. Robinson's view, the Merchandise Marks Act, 1887, as now amended this session, contains all that is needed, in conjunction with the Pharmacy and Medicines Act of 1941, to protect purchasers of drugs. He concludes that the logical course now is to remove drugs entirely from the statutes controlling the sale of food and that provision for the supervision for the sale of drugs should be in the hands of the authorities possessing the necessary technical knowledge to exercise control effectively and intelligently. He suggests that such authorities are not local civic councils or the Ministry of Food but the Health Service Councils, with their expert Committees and Tribunals, the Ministry of Health and the Pharmaceutical Society of Great Britain. There might, however, be some provision for the protection of consumers of drugs which would give statutory recognition to some standard formulae and definitions to be found in the British Pharmacopoeia, the British Pharmaceutical Codex, and the National Formulary. The procuring of samples, Mr. Robinson suggests, might be made the business of the local Health Service Committees or the Pharmaceutical Society. The Ministry of Health would naturally be the central authority supervising the administration. Tribunals to hear complaints should not be courts of summary jurisdiction but special committees composed of persons capable of appreciating the highly technical issues involved.

These suggestions for the removal of drugs from the scope of the Food and Drugs Act were commended on June 24 by Mr. J. A. O'Keefe, LL. B., B.Sc. (who is a barrister and now holds the position of Public Control Officer for Middlesex), in a lengthy and highly suggestive paper submitted to the Annual Conference of the Institute of Weights and Measures Administration. The

chief inspectors of many Food and Drugs Authorities were present at that Conference and none of them raised any objection to the proposal, which was in fact well received.

Among other points made by Mr. O'Keefe were the following. There is now little purpose in the retention by the Minister of Food of the right to allow Food and Drugs Authorities to institute proceedings under Regs. 1 and 2 of the Defence (Sale of Food) Regulations 1943. Further, Mr. O'Keefe feels that the most constant menace to the protection of consumers of food is the debasement of accepted terms for specific articles, as instanced not merely by the candid attempt to pass off inferior or different articles under the name of some particular food but the exploitation of the name of a food with some qualifying adjective and the application of the phrase to the sub-standard or imitation article. The definitions and meanings of food names become thus removed, inch by inch, from their original connotations until they may, if we do not all keep constant watch, fail to mean anything at all, and when such a stage comes the protection of the purchaser fails. Examples of such debasement of terms are to be found, he stated, in the Food Standards (Cream) Order, 1951, which allows "cream" to be used in relation to a substance containing as little as 18 *per cent.* by weight of milk fat and permits cream with 48 *per cent.* of milk fat to be called "double cream." Moreover, the Minister has failed to fix a standard for imitation cream as was recommended two years ago by the Food Standards Committee or to forbid the application of the term "synthetic cream" to a cream-substitute containing fats not derived from milk. There are also on the market various dehydrated varieties of well-known foods, such as cream soup powders and salad dressing powders, to which misleading descriptions seem to be given with impunity.

Mr. O'Keefe told the members of the Institute that in his view more attention should be paid by administrators of the food laws to the enforcement of the Merchandise Marks (Imported Goods) Orders. He also called special attention to common offences against the Merchandise Marks Act, 1887, arising from the misdescription of fish, fruit, vegetables, meat, and other natural products exposed for sale—urging that sampling officers should make themselves expert in the identification of such articles.

MISDESCRIBED FISH

Various instances of passing-off which have occurred include witch, megrim or lemon sole as "sole" or "Dover sole." Witch and megrim are also sometimes described as "witch sole" or "megrim sole"; both are incorrect because neither is a sole and both terms are objectionable because they may lead in time to the description of the fish simply as "sole." Haddock (especially the large variety known as "jumbo haddock"), saithe and pollack have been sold as "hake" or "Scotch hake." Sometimes traders have sought to justify the sale of these other fish as "Scotch hake" as being a trade custom. It is not a legitimate answer in law, which on this subject is that the name of one article of food may not be applied to another on the ground that, in the trade, the name has a secondary meaning unknown to the public. Whiting has been sold as "haddock"; smoked whiting and smoked cod sold as "smoked haddock." Sales of dabs and flounders as "plaice" and fillets of megrim, dab and flounder as "plaice fillets" have been known. Ling has been sold as "cod"; brill as "turbot," pilchards and large sprats as "herrings."

The enforcing officer should be well aware at any particular time of current wholesale and retail prices of fish and of their seasonal appearance on the market. If a woman, according to her taste, wants a piece of haddock and is invited to buy, or buys it, it is intolerable that the fish offered or sold should be cod. In no case is there any room for discussion as to whether the one is more nutritious than the other or more delicious to taste.

Since Mr. O'Keefe's paper was prepared, the White Fish Authority has announced, in its Annual Report for 1952, its intention to make regulations under s. 5 of the Sea Fish Industry Act, 1951, enforcing a standard list of fish names "at the retail stage." A list is being drawn up in co-operation with the associations of retailers of fish.

NUTRITIONAL AND DIETARY CLAIMS

On this branch of the subject, Mr. O'Keefe said: "The scope of enforcement which may arise from advertisements which contravene r. 1 of the Defence (Sale of Food) Regulations, 1943, is, in my view, of great importance and I suspect that the majority of us give insufficient attention to this matter. Some of our colleagues have made special study of claims misleading as to the nutritional or dietary value of foodstuffs in the light of possible contravention of this regulation, and I feel it would be of great benefit if illustrations could be given of their activities. Perhaps the main contribution of the Regulation is this very matter, and a close and constant scrutiny of food advertisements is a very necessary duty for us all. This is essentially a task for the enforcing officer, although it is, no doubt, fit and convenient that in any one authority it should tend to become a specialized study and duty of a limited few. The first requisite is a study of the nutritional and dietary aspects of foodstuffs."

It is unfortunate that space is not available for further and fuller quotations from a most enlightened and informative essay on the administration of the food laws.

PERSONALIA

APPOINTMENTS

Mr. G. H. Brown, clerk to the justices of the Trowbridge and Whorwellsdown Petty Sessional Divisions of Wiltshire, has been appointed clerk to the justices of the Bradford-on-Avon Division of Wiltshire in place of Mr. H. E. Moore who has resigned owing to ill-health.

Mr. R. K. Cook has been appointed clerk to the St. Helens and Prescot County Petty Sessional Division in succession to the late Mr. John Hammill.

Mr. R. P. Burton, LL.B., deputy town clerk of Sutton Coldfield, has been appointed clerk and chief financial officer to Sedgefield R.D.C. Mr. Burton has held previous appointments as assistant solicitor of Morecambe and Heysham, and deputy town clerk of Eastleigh.

Brigadier J. N. Cheney, chief constable for the East Riding of Yorkshire, has been appointed chief constable for Buckinghamshire.

Mr. Wilfrid Peter Blenkin, deputy commander of the Metropolitan Police, has been appointed chief constable for the East Riding of Yorkshire.

Mr. Geoffrey Wilson Cutts, deputy borough education officer for Chesterfield, has been appointed education officer for Widnes, Lancashire.

Dr. S. C. J. Falkman, part-time medical officer of health for Maesteg U.D.C., has been appointed medical officer of health for Sedgley U.D.C. Dr. Falkman was formerly assistant county school medical officer, Glamorgan County Council.

Dr. Barbara Jones has been appointed assistant county medical officer for the Hyde division of Cheshire.

Dr. I. Spedding Jones, medical officer of health for Wigton R.D.C., and assistant medical officer of health for Cumberland, has been appointed to serve also as medical officer of health for Penrith U.D.C.

OBITUARY

Mr. J. H. Whittingham, clerk to the Bolton justices for the past twenty-one years, died on July 19 at the age of fifty-eight. Mr. Whittingham was admitted in 1920 and was taken into partnership with his father as H. Whittingham & Son. After his father's death in 1925 he carried on the practice alone. From 1922 to 1932 he was borough prosecutor of Bolton, and in 1932 was appointed clerk to the justices. He served in the army during the first world war.

WEEKLY NOTES OF CASES

COURT OF APPEAL

(Before Sir Raymond Evershed, M.R., Birkett and Morris, L.JJ.)

PERRINS *v.* DRAPER

Rates—Agricultural buildings—"Used solely in connexion with agricultural operations thereon"—Dairy—Cooling and pasteurizing milk from neighbouring farm—Rating and Valuation (Apportionment) Act, 1928 (18 *and* 19 *Geo.* 5, *c.* 44), *s.* 2 (2).

A dairy farmer occupied sixty-four acres of agricultural land and his brother occupied a neighbouring farm. On the dairy farm there was a dairy in which milk from both farms was cooled and pasteurized. The question for the decision of the court was whether the dairy was an agricultural building within the meaning of s. 2 (2) of the Rating and Valuation (Apportionment) Act, 1928, which defines agricultural buildings as "buildings (other than dwelling-houses) occupied together with agricultural land . . . and . . . used solely in connexion with agricultural operations thereon."

Held: the production of milk was an agricultural operation and the building was, therefore, used in connexion with an agricultural operation, but as the operation was not confined to the land occupied with the building the dairy was not an agricultural building.

Thompson v. *Milk Marketing Board* (1952) (116 J.P. 473) distinguished.

Counsel: *W. M. Huntley* for the occupier; *Maurice Lyell* for the valuation officer.

Solicitors: *Church, Adams, Tatham & Co.*, for *Burges, Salmon & Co.*; *Solicitor of Inland Revenue* (for the valuation officer).

(Reported by F. Guttman, Esq., Barrister-at-Law.)

QUEEN'S BENCH DIVISION

(Before Lord Goddard, C.J., Parker and Donovan, JJ.)

July 30, 1953

EDWARDS *v.* GRIFFITHS

Road Traffic—Driving when uninsured—Persons covered "policy holder and any other person driving with [his] permission"—Proviso that person driving is not disqualified—Driver mentally defective lad—Road Traffic Act, 1930 (20 *and* 21 *Geo.* 5, *c.* 43), *s.* 4 (6).

CASE STATED by Wiltshire justices.

At a court of summary juridiction an information was preferred by the appellant, Henry Edwards, a police officer, charging the respondent, Herbert Griffiths, with using a motor tractor when there was not in force in respect of it a policy of insurance as required by the Road Traffic Act, 1930, contrary to s. 35 (1) of the Act.

On the day in question the tractor was driven by the respondent, a mentally defective lad, whose employer held a policy covering "the policy holder and any other person driving with the permission of the policy holder . . . provided the person driving holds a licence to drive the vehicle or has held and is not disqualified for holding or obtaining such a licence."

By s. 4 (6) of the Road Traffic Act, 1930: "A person shall be disqualified for holding a licence . . . (*b*) if he is by a conviction under this Part of this Act or by an order of a court thereunder disqualified for holding or obtaining a licence." The justices were of opinion that "disqualified" in the policy referred to disqualification by order of the court and that the insurers would have been on risk under the policy. They, accordingly, dismissed the information, and the appellant appealed.

Held, that the justices were right in the interpretation which they put on the policy and that the appeal must be dismissed.

Counsel: *McGougan* for the appellant. The respondent did not appear.

Solicitors: *Drury, Hopgood & Co.*, for *B. T. Ford*, Marlborough.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

July 28, 30, 1953

R. *v.* WELSHPOOL JUSTICES: *Ex parte* HOLLEY

Justices—Procedure—Retirement with clerk—Desire for advice on legal points—Continuance of presence of clerk while facts considered—Shorthand writer sent for to read note.

APPLICATION for order of *certiorari*.

The applicant, Edward John Holley, a licensee, was convicted by a court of summary jurisdiction at Welshpool of having sold intoxicating liquor outside permitted hours, contrary to s. 4 of the Licensing Act, 1921. He obtained leave to apply for an order of *certiorari* to quash his conviction.

The ground of the application was that the procedure adopted by the justices was irregular because at the hearing of the information the acting clerk to the justices retired with them and remained in their room while they were considering the facts and that a shorthand clerk was sent for by the justices and went to their room with her notebook while they were deliberating, though the defendant was not made aware of the precise purpose for which her presence was required or what the purport was of the information which she gave to the justices.

The justices, by their affidavit in objection, stated that, as several legal points had been raised by the defending solicitor, they wished to have advice from their clerk and requested him to retire with them. When considering some of the police evidence they desired to have their impression of it confirmed by the shorthand writer and she came into their room and read them a portion of her notes which confirmed their impression.

Held, following *R.* v. *East Kerrier Justices. Ex parte Mundy* (1952) (116 J.P. 339), that the clerk's presence in the justices' room when they were deliberating should be only for the purpose of advising them on questions of law, but that in the present case the justices, as they required advice on law, did nothing wrong in taking the clerk to their room with them, and the fact that the clerk continued to stay in the room while they were discussing the facts was not in itself sufficient to invalidate the justices' decision; and that the sending for the shorthand writer was not improper and could not have given rise to any reasonable misunderstanding, though it would be better in such circumstances for justices to return into court and ask the shorthand writer to read his note on any particular point they might require. *Certiorari*, therefore, should not issue in the present case.

Counsel: *P. L. W. Owen* for the applicant; *Perrett* for the justices.

Solicitors: *Jaques & Co.*, for *Emrys Jones & Co.*, Welshpool; *Robbins, Olivey & Lake* for *Davies & Roberts*, Welshpool.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

July 29, 1953

BEWLAY & CO., LTD. *v.* LONDON COUNTY COUNCIL

Metropolis—Building—Dangerous structure notice—Complaint before magistrate—Order that defendants "take down, repair or otherwise secure" premises—Statutory tenants in premises—Premises economically not worth repair—Discretion of magistrate—London Building Acts (Amendment) Act, 1939 (2 *and* 3 *Geo.* 6, *c. xcvii*), *ss.* 62, 64.

CASE STATED by a metropolitan magistrate.

At a metropolitan magistrate's court a complaint was preferred by the London County Council charging Bewlay & Co., Ltd., the owners of premises known as 27 Store Street, Holborn, with having failed to comply with a dangerous structure notice served under s. 62 of the London Building Acts (Amendment) Act, 1939, as speedily as the nature of the case permitted, contrary to s. 64 of the Act.

On May 19, 1952, the council served on the company a notice requiring them to "take down, repair, or otherwise secure such portions of the main front wall and the balconies on the main rear wall as are fractured, sagged out of perpendicular, loose, insecurely supported, or otherwise insecure and do any further work rendered necessary by the foregoing." On receipt of the notice the company at once shored up the premises to prevent any immediate danger. There were statutory tenants in the house, and the district surveyor had refused to exercise his power of certifying that it was necessary to remove them. The magistrate found that the premises were not such as would warrant the expenditure required to put them in a safe condition and a reasonable state of repair and that in normal times the building would doubtless have been demolished because it was not worth repairing from an economical point of view, but he held that he had no discretion and was bound to make an order in the exact terms of s. 64 requiring the company "to take down, repair or otherwise secure" the premises, and he made such an order accordingly. The company appealed.

Held, that the case must be remitted to the magistrate with the opinion of the court that he was wrong in holding that he had not a discretion with regard to which of the three courses of action he would order and that it was open to him to order that the premises should be taken down.

Counsel: *Rimmer, Q.C.*, and *Wiggins*, for the company; *H. E. Francis* for the county council.

Solicitors: *Bartlett & Gluckstein*; *J. G. Barr*, Solicitor to the London County Council.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

July 28, 1953

R. *v.* BERKSHIRE COUNTY COUNCIL. *Ex parte* BERKSHIRE LIME CO. (CHILDREY), LTD.

Road Traffic—Vehicle—Excise licence—Agricultural engine—Goods vehicle—Lime-spreading vehicles carying lime—Vehicles (Excise) Act, 1949 (12, 13 *and* 14 *Geo.* 6, *c.* 89), *s.* 1, *s.* 4 (2), *s.* 27—*Finance Act*, 1950 (14 *Geo.* 6, *c.* 15), *s.* 13.

APPLICATION for order of *mandamus*.

The applicants, Berkshire Lime Co. (Childrey), Ltd., owned three vehicles consisting of an internal combustion engine and driver's cab

mounted on a chassis on which was also imposed a receptacle to contain lime fitted with a device to enable the lime to be spread on the agricultural land over which the vehicle was driven. The applicants' business was to carry lime to the fields of farmers who employed their services and then spread it. They applied to the county council for excise licences at a lower rate for their vehicles as agricultural engines in accordance with s. 4 (2) of the Vehicles (Excise) Act, 1949, as amended by s. 13 of the Finance Act, 1950. The council, being of opinion that the vehicles were "goods vehicles" within the meaning of s. 27 (1) of the Act of 1949 which defines a "goods vehicle" as "a mechanically propelled vehicle . . . constructed or adapted for use and used for the conveyance of goods or burden of any description, whether in the course of trade or otherwise", refused to grant the application. The applicants obtained leave to apply for an order of *mandamus* directing the council to hear and determine the application according to law.

Held, that, as s. 4 (2) of the Act clearly distinguished haulage from carriage, and vehicles remained taxable at the lower rate only if they were used on the roads for the purpose of haulage, the council came to a right decision on the category into which the vehicles in question fell for purposes of tax, and the applications must be refused.

Counsel: *Caplan* for the applicants; *J. P. Ashworth* for the council.

Solicitors: *Rider, Heaton, Meredith & Mills; Treasury Solicitor.*

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

BROWNING *v.* J. W. H. WATSON (ROCHESTER), LTD.

Road Traffic—Express carriage—Permitting use without licence—Conveyance of private party on special occasion—Club outing—Two non-members carried—No knowledge by coach proprietors' servants that persons were not members—Road Traffic Act, 1930 (20 *and* 21 *Geo.* 5, *c.* 43), *ss.* 61, 72.

CASE STATED by Rochester justices.

At a court of summary jurisdiction at Rochester six informations were preferred by the appellant, Ernest Clifford Browning, charging the respondents, J. W. H. Watson (Rochester), Ltd., coach proprietors, with unlawfully permitting a motor coach to be used as an express carriage without a road service licence, contrary to s. 72 (2) of the Road Traffic Act, 1930.

On August 30, September 13 and 27, October 18, and November 1 and 15, 1952, a motor-coach was hired from the respondents, coach proprietors, by the secretary of the United Services Club, Rainham, to take members of the club to Gillingham football ground where, on each occasion, the Gillingham football club's first team were playing in a league match. On November 15, 1952, the appellant and a traffic examiner boarded the coach and travelled to Gillingham as passengers. Fares were collected from them by a committee member of the club but neither the respondents' servants nor any other person knew that they were not members of the club.

The justices were of opinion that the occasions of all the matches were "special occasions" within the meaning of s. 61 (2) (proviso) of the Act. With regard to the sixth occasion they were of opinion that, as the respondents were not aware of the presence of the two non-members of the club in the vehicle, the respondents could not be convicted. They accordingly dismissed all the informations, and the appellant appealed.

Held, that with regard to the first five informations, it was open to the justices to find that the occasions were special, and to dismiss the informations, but with regard to the sixth, if a coach proprietor let a coach to a club for the conveyance of its members and through his servants not taking adequate precautions allowed non-members to travel in it, he was vicariously liable for the acts of his servants, and, therefore, with regard to that occasion, there must be a direction to convict.

Counsel: *Skelhorn* for the appellant; *Van Oss* for the respondent.

Solicitors: *Treasury Solicitor; Gregory, Rowcliffe & Co.*, for *Wood, McLellan & Williams*, Chatham.

(Reported by T. R. Fitzwalter Butler, Esq., Barrister-at-Law.)

PROBATE, DIVORCE AND ADMIRALTY DIVISION

(Before Lord Merriman, P., and Pearce, J.)

June 25, 1953

WAKEFORD *v.* WAKEFORD

Husband and Wife—Maintenance—Amount—Amount based on desire of justices to force husband to grant wife a tenancy of the matrimonial home.

In September, 1951, the husband left the wife, but he continued to pay the rent, the rates and the electricity account of the flat occupied by the wife which formed part of a building of which he was the leaseholder. In addition, he paid her £3 a week for her maintenance. The wife offered to pay the husband £1 a week in return for a tenancy of the flat, but the husband refused to grant her a tenancy. The wife issued a summons under the Summary Jurisdiction (Separation and Maintenance) Acts, 1895 to 1949, charging the husband with desertion, which he admitted. The justices adjourned the case to give the husband an opportunity of granting the wife a tenancy of the flat, and when he refused to do so they awarded the wife £4 a week for her maintenance, intimating to the husband that if he offered the wife a tenancy they would consider an application by him for a variation of the amount.

Held: the justices had no right to increase the amount of the award in order to force the husband to grant the wife a tenancy, and, as they had erred on a matter of principle, the sum awarded would be reduced to £3 a week.

Counsel: *Stinson* for the husband, *Miss C. Colwill* for the wife.

Solicitors: *Sutton-Mattocks & Co.*, for the husband; *Musson & Co.*, for the wife.

(Reported by A. T. Hoolahan, Esq., Barrister-at-Law.)

ADDITIONS TO COMMISSIONS

ANGLESEY COUNTY

Gwilym Rees Evans, Graigwen, Amlwch.

BERKSHIRE

Gilbert James Paull, Q.C., 1, Temple Gardens, Temple, E.C.4.

CAMBRIDGE COUNTY

Mrs. Bettine Mary Moore, Melbourn, Cambs.

OXFORD COUNTY

Mrs. Muriel Mary Parsons, Lower Dornford Farm, Wootton, Woodstock, Oxon.

Mrs. Annabella Jean Richmond-Watson, Brightwell Park, Watlington, Oxon.

SOUTH SHIELDS BOROUGH

Mrs. Catherine Fowles, 34, Cranford Street, South Shields.
Richard Hall, 1, Erskine Road, South Shields.
Mrs. Kathleen Harney, 111, Beech Road, South Shields.
William McMinniagle, 13, Harton Grove, South Shields.
Mrs. Eva Gertrude Oliver, 44, Grosvenor Road, South Shields.
Thomas William Peel, 30, Collin Avenue, South Shields.

REVIEWS

Oke's Magisterial Formulist. First Supplement to Fourteenth Edition. By J. P. Wilson, Solicitor, Clerk to the Sunderland Justices. London: Butterworth & Co. (Publishers) Ltd., Shaw and Sons Ltd., 7-9, Fetter Lane, E.C. Price 17s. 6d. net, by post 5d. extra. Price Main Work and Supplement £5 5s. 0d.

This supplement has become absolutely necessary to all users of *Oke* by reason of the coming into force of the Magistrates Courts Act and Rules. The new statutory forms are printed, with cross references where necessary, and the consequential alterations in the main work are dealt with by the familiar noter-up method. Some other revisions have been made and a number of new precedents arising out of recent legislation have been inserted.

The learned editor and the publishers are to be congratulated on having completed the work so soon after the new law came into force.

Whillans's Tax Tables and Tax Reckoner, 1953-4. By George Whillans. London: Butterworth & Co. (Publishers) Ltd. 1953. Price 5s. per copy.

For several years now we have noticed *Whillans's Tax Tables* when they appeared, and those of our readers who are concerned with financial matters must be familiar with them. The price of 5*s*. per copy is reduced if six to twenty-four are bought, and further reduced if twenty-five or more are bought. It is thus possible, and will be very prudent, to obtain several copies for a staff of a local authority's financial officer, where there are matters to be attended to which involve a knowledge of the current rates of taxation, and all the other matters which Mr. Whillans includes. There is a straightforward tax chart showing the amounts payable on incomes up to £2,000, and charts of the surtax rates above that figure. There are calculations for " free of tax " annuities, and a list of double taxation agreements in force. National Insurance contributions are set out and the rates of estate duty, as also P.A.Y.E. codes.

The author finds room for other bits of information, such as the successive issues of defence bonds, and the uniform allowances for officers of the forces. In short, pretty well everything which the finance staff of a local authority or the taxation accountant wants to have at his finger's ends is presented to him here, in one thin publication on stout paper.

The Rent Acts. Seventh Edition. By R. E. Megarry. London: Stevens & Sons Limited. 1953. Price £2 10s. 0d. net.

At short intervals since 1946, when the second edition of this work appeared, we have had the duty of reviewing successive editions. In one of his prefaces Mr. Megarry, who seems capable of a youthful gaiety of approach to what has been judicially described as the horror of these Acts, remarked that it was not recorded as among the labours of Hercules that he had to produce every year a new edition of a work upon the Rent Restrictions Acts. Between the sixth and seventh editions, there has been an interval of two years, and in that time some 240 cases have been added to the book. The only new statute is the Crown Lessees (Protection of Sub-Tenants) Act, 1952, dealing with an obvious flaw which had been discovered in the main structure of the Acts. In case law, there has been development of doctrine upon the nature of the so-called " statutory tenancy," and the statutory security of tenure attached to a person whose tenancy has been ended, by a notice to quit which by statute is not to " have effect." Mr. Megarry duly deals with these new doctrines, which have been grafted upon the law of real property, and we note with special satisfaction that he deals also with a point neglected (so far as our observation goes) by all textbooks, and brought to light by us. This is the effect of the taking of steps for compulsory purchase, upon a statutory tenancy, or a contractual tenancy capable (because a house falls within the Acts) of being turned into a statutory tenancy. There are two schools of thought about this. The one is that the purchasing authority cannot acquire more than the vendor has to sell, and therefore cannot be in a better position than the vendor to get rid of a statutory tenant. The other school holds that the statutes, ordinarily used for compulsory purchase by a public authority or statutory undertaker, operate to override the interest of a person who has become a statutory tenant under the Rent Restrictions Acts, just as they override any normal leasehold or the interest of the freeholder. This point is of daily importance to many of our readers; we should have liked to see Mr. Megarry spread himself on its elucidation. If, as appears, he does not feel justified in devoting space to doing so in the present work, he may perhaps be disposed to treat it elsewhere, in his other capacity of assistant editor of the *Law Quarterly*. Meantime we are glad to have, at pp. 21 and 22 of the present work, a brief statement of his conclusions, and gratified to find that the authority which he gives for them is a series of articles or notes in this Journal for 1951.

It is a pity that the work had to go to press before the decision of the House of Lords in *Preston and Area Rent Tribunal* v. *R., ante* p. 457, *alias R.* v. *St. Helens and Area Rent Tribunal. Ex parte Pickavance* [1952] 1 All E.R. 455 ; 116 J.P. 373. We see from his treatment of the judgments that Mr. Megarry held something the same view as ourselves, about the decisions in the Divisional Court and the Court of Appeal, and expressed them in articles in the *Law Quarterly Review*. It must be a matter of satisfaction to him, as to us, to find the minority judgment in the Court of Appeal upheld unanimously in the House of Lords.

It is a long time since we found a law book aptly illustrating a point by a reference to *Punch ;* long indeed since we came across one with prefaces so happily expressed as those from which extracts have been retained in the present edition. We suppose it is a mere coincidence that the fourth and fifth editions were dated from Lincoln's Inn on Guy Fawkes Day, 1948 and 1949, and the present edition on April 1, 1953. Apart from these characteristic touches, the work has now been tested in practice throughout edition after edition, and has established itself as, almost certainly, the most reliable and most complete upon its subject, as well as the most readable. It has been treated by the judges as something near a work of authority, and is the book to which the practitioner will most naturally turn for a full treatment of any topic arising on the Rent Restrictions Acts. We have not wholly given up hope that, some day, a Government will pluck up courage to have the Acts consolidated, assuming (as seems probable) that they are likely to last in one form or another into a future which cannot be foreseen, although we do not expect to see consolidation in this Parliament, and quite likely not in the next. Political obstacles have hitherto proved too formidable and are not likely to be squarely faced, however much the legal profession and the bench finds to say against the present chaotic condition of the Acts. Meanwhile Mr. Megarry's book will, we hope, continue to appear at short intervals, to keep us abreast of all new matter. When consolidation takes effect, the first duty of the draftsman will be to soak himself thoroughly in the learning which the book contains.

The Essentials of Public Administration. By E. N. Gladden. London: Staples Press Limited. Price 17s. 6d. net.

We gather from the preface to this work that Dr. Gladden is a member of the Civil Service, and that he set himself six years ago to provide students and the general reader with a complete survey of public administration. A book entitled " Introduction to Public Administration " appeared in 1949, and there had been earlier works by the author upon the civil service. As the publishers point out, everybody in the complex world of today is caught up in the toils of public administration. The effectiveness of modern government depends upon the efficiency of the public service, and secondly upon the measure of understanding of its work amongst the public at large.

The scope of the book extends not merely to the civil service and local government service, but to the new national boards which have taken over so many important fields from private enterprise and also from elected local bodies.

Dr. Gladden begins with an historical survey of public administration in the ancient world and China, as well as in modern Europe. He speaks of modes of controlling the official, and of the constitution of an administrative machine and methods of making it work. The book can be recommended to any serious student of these topics, and even the general reader may find much of it interesting and instructive. It is enlivened here and there by apposite quotations, some of them from unexpected sources, and enriched by an immense apparatus of references for further reading.

The Law of Allotments. By J. F. Garner. London: Shaw & Sons, Ltd. Price 15s.

Mr. Garner is already known as the author of several books, published by Messrs. Shaw & Sons, on other branches of local government and public health. As Town Clerk of Andover, he has had the opportunity of seeing how the law works in practice, and the present book (like others we have previously reviewed) is conveniently set out so as to show the reader in a manageable shape the legal provisions with which he is for the moment concerned. The law relating to allotments is not vast : it is all statutory, and contained in a few statutes, but it is rather confusing, by reason of nomenclature and of its being contained in different Acts. The policy of Parliament and successive governments towards allotments has, to some extent, fluctuated, and the topic has at times become mixed up with conflicts about the use of land, as well as being from time to time pushed forward in its social aspects. Local government officials, members of local authorities, and others interested, will find here adequate information upon every aspect of the subject, legal and practical.

A TRAVELLER IN DENMARK

COPENHAGEN, August 3.

The history-books of our schooldays taught us that there were wild people called Danes, whose principal occupation was to harry large tracts of our country with fire and sword. It was in a fit of abstraction during one of their periodical deprecations that Good King Alfred, if we remember aright, allowed the cakes to burn. This early instance of bad English cooking may well have exasperated our Danish visitors, however benevolent their original intentions. For if there is one thing that distinguishes their descendants, inside their own country, today it is the cult of good food. Quality is of primary importance, but quantity is by no means neglected. Every meal is a banquet; each dish is constructed with loving care, to be at one and the same time a pleasure to the eye, a delight to the palate and a satisfaction to the stomach. Pastry not only melts, like ambrosia flavoured with nectar, in the mouth; it looks when it is brought to the table like a piece of classical architecture, moulded with exquisite taste.

Denmark comprises one large peninsula, two large islands, and an Archipelago of smaller isles. Copenhagen—the Merchants' Harbour, as its Danish name signifies—lies near the north eastern corner of Zealand, the easternmost of the two main islands. What astonishes the foreign visitor is the realization that a bare 150 miles of sea separates this from the Polish frontier City of Stettin, at the mouth of the Oder—a mere fifteen minutes' flight by jet-aircraft. For there is probably no European city more lavishly endowed with all the typical attributes of western civilization than Copenhagen. Its beautiful streets and squares, spacious and scrupulously clean; its magnicient architecture, in which the Dutch Renaissance style predominates, with here a palace in graceful rococo, and there a public building in the best classical tradition, gives it the character of refinement which one associates with eighteenth-century Versailles, coupled with the solid prosperity of The Hague. Its people are fair-haired, blue-eyed, good-humoured giants, who greet the foreign visitor with the most charming of smiles, behind which lies a friendly sincerity based on natural good manners. This characteristic is particularly noticeable among the drivers of motor-vehicles and the bicycle-riders who abound in this flat country. The absent-minded Englishman is apt on occasions to forget that traffic here keeps to the right; if he looks the wrong way and steps carelessly into the road, approaching vehicles are considerately stopped until he has crossed in safety; while their drivers, instead of sneering (as do some in England) or swearing, as in France, at pedestrian ignorance, smile at him in friendly sympathy, indicating by their behaviour that that foot-passenger has at all times the prior right of way.

The Round Tower of Hans Andersen's story, built in the early 1600's by King Christian IV, is famous for the broad ascending spiral road within, up which the Tsar Peter the Great once insisted on driving his carriage, to the polite consternation of his Danish hosts. From the summit one gets an impression of ancient red-tiled roofs, lofty green-coppered spires (many of which are reminiscent in style of the Wren Churches in the City of London), and beyond these the flashing sunlit waters of the harbour, with its extensive warehouses and wharves, and the tall masts of ships from every corner of the world. Copenhagen is never sultry, for the air has the salt tang of the sea; the busy little canals that run into the centre of the City are a perpetual reminder that one is in an important seaport. Yet, for all that, the City retains a charm and elegance that are quite unspoilt by the commercial surroundings, and a tidiness and cleanliness that is as much in evidence in the area of the docks as in the most sophisticated shopping districts.

Fine museums, full of relics of Denmark's great past, abound. The National Museum has some exceptionally interesting collections of Viking and Medieval clothing, weapons and *objets d'art*; the baroque-style Rosenborg Castle contains magnificent furniture, pictures, glass and porcelain, and the ancient Crown Jewels. There are a number of beautiful churches, mostly of late seventeenth or early eighteenth century construction, and the University, Government and Municipal buildings are handsome edifices.

The writer is indebted to Hr. Justitssekretaer C. Weesgaard, Registrar of the Eastern Landsret (District Court) for the following short sketch of the Danish legal system. Under the Constitution of 1849 the form of government is that of a Constitutional Monarchy—the legislative power lies with the King in conjunction with the Rigsdag or Parliament; the executive power is exercised by the King acting through his Ministers; and the judicial power, in the hands of the Courts of Justice, may be exercised only by law, and must be uncontrolled by the Executive. The Evangelical Lutheran Church is established by law; but the Constitution guarantees complete liberty of conscience.

The administration of justice must be in public and the proceedings oral. Juries must be empanelled in all criminal cases. In criminal appeals three lay judges sit on a footing of equality with the stipendiary judges, and deal alike with the determination of guilt or innocence and with the apportionment of punishment. Both juries and lay judges are selected by ballot from the roll of parliamentary electors. The Hoejesteret (Supreme Court) is the Court of Final Appeal, and consists of a President and twelve other Judges, nine of whom at least must sit at every hearing.

Matrimonial causes are dealt with by the magisterial courts, which are empowered to grant divorce decrees, by the consent of both parties, after legal separation for eighteen months. It is requisite, however, that methods of conciliation must first be employed, in which both the church and the civil authorities cooperate. An unwilling spouse cannot delay divorce for more than two and a half years after legal separation. The ancillary rights of the partner are covered by the legal provision that marriage gives the spouses equal shares in matrimonial property, unless private arrangements have been made between them on the occasion of marriage. The divorce rate does not appear to be proportionately higher than in England.

Fifteen miles north of Copenhagen lies the town of Helsingor—Shakespeare's Elsinore—with the frowning mass of Kronborg Castle standing, like a sentinel, upon the narrow six-mile strait that separates Denmark from South-western Sweden. The last the traveller sees of Denmark, as the great train-ferry carries him across the narrow Sound *en route* for Oslo, Stockholm or Eastern Europe, is the impressive picture of the grim walls and lofty Renaissance towers of Hamlet's tragic home.

A.L.P.

NOTICES

The next court of quarter sessions for the borough of Shrewsbury will be held on Tuesday, September 1, at the Shirehall, Shrewsbury, at 11 *a.m.*

The next court of quarter sessions for the city of Hereford will be held on September 4, 1953.

The next court of quarter sessions for the borough of Southend-on-Sea will be held on Monday, September 21, 1953.

PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Adoption—*Infant the subject of High Court order as to custody.*

With reference to the report of the case of *Crossley* v. *Crossley*, 117 J.P.N. 248, I am often called upon to act as *guardian ad litem* in the juvenile court and have always been under the impression that where custody of a child had been decided in divorce proceedings, an inferior court was not competent to deal with its subsequent disposal. In the case reported, the custody of the child having been vested in the mother in the divorce, and not passing from her in the adoption, I can understand the judge's ruling and I have had the advantage of reading the fuller report in the Weekly Law Reports.

I should be grateful if you would express a view as to whether the statement by the President referred to in this case, covers cases where one of the applicants for the adoption is not the person to whom custody was given in the divorce, *i.e.*, in the *Crossley* case if the application for adoption had been by the father, would a juvenile court have been competent, having regard to the President's statement. SEA.

Answer.

It does not appear that the learned President placed any such limitation as is suggested upon the class of case in which an inferior court may make an adoption order although a High Court order as to custody is in existence. In adoption proceedings a court is not being asked to make an order as to custody, but is being asked to make an order affecting the status of the infant permanently, and the considerations to be had in mind are not the same as in divorce proceedings where there may be conflicting claims between the parents. If the adoption is by a stranger, and both parents consent, there is no difficulty. If, however, an application for adoption is made by the parent who has not been given custody, objection by the other parent would naturally carry great weight. Moreover, if the parent applying for an adoption order has been declared by the High Court to be unfit to have the custody of the child, it would obviously be a case in which a juvenile court should refuse to make an adoption order.

2.—Agricultural Holdings Act, 1948—*Tenancies not protected—Short terms.*

I shall be glad of your opinion on whether :

(*a*) a tenancy from year to year referred to in s. 2 of the Agricultural Holdings Act, 1948, is the same as that of a tenancy for the term of two years referred to in s. 3 of that Act.

(*b*) a tenancy of an agricultural holding for one year will lapse automatically on the expiration of that term without the necessity for a notice to quit, since it appears that such a tenancy does not come within s. 3 or any other section of the Act.

It is the usual practice, when one does not wish a normal agricultural tenancy to be established, to obtain the approval of the Minister under s. 2 to a letting or grant for 364 days. It seems, however, that there is no reason why such a letting or grant should not be for one year or even for one year and 364 days.

In writing the above I have disregarded the proviso to s. 2 (1). PURA.

Answer.

(*a*) No, in our opinion.

(*b*) No, in our opinion, because it will operate as a tenancy from year to year under s. 2 of the Act of 1948.

There appears, however, to be no objection to the Minister's approving a tenancy for one year certain, or for one year and no longer, since such a tenancy is less than a tenancy from year to year. Approval of a letting for 364 days is, however, more usual and open to no doubt. Approval to a letting for one year and 364 days would also be possible under s. 2, because such a letting on the present authorities is less than a tenancy from year to year and is not a term of years ; *see Land Settlement Association Ltd.* v. *Carr* [1944] K.B. 657 C.A. at pp. 662, 667 ; 2 All E.R. 126.

3.—Compensation (Defence) Act, 1939, s. 12 (2)—*Damage done by licensees of requisitioned property.*

Certain property was requisitioned by my council for housing purposes, and this included a stable which the owners had used for storage purposes and left locked. The council's licensee opened the stable, seriously damaging both the building and the contents. Liability for the damage was not accepted by the council and shortly after the release of the premises from requisition a claim was received from the owner in respect of the reinstatement of the stable. The district valuer contends that the requisitioning authority is liable for making good all damage done during the requisition period, and that any proceedings against the occupiers, who are persons of straw, should be taken by them and not the owners. Section 12 (2) of the Compensation (Defence) Act, 1939, provides that no compensation shall by virtue of that Act be payable to any person in respect of any loss of or damage to property, if and so far as that person has become entitled apart from the provisions of that Act to recover any sum by way of damages or indemnity in respect of that loss or damage. It is understood that the district valuer is adopting an interpretation of this section which would limit it to cases where the damage may be covered by an insurance policy or some other contract of indemnity. I am of the opinion, however, that the section would also include a case where the owner of property was or had at some time become entitled to sue for damages at common law. In this connexion, I think the word " indemnity " would have been sufficient without the reference to " damages," if the district valuer's construction is adopted. Moreover, it was found necessary under s. 3 (2) of the Landlord and Tenant (Requisitioned Land) Act, 1944, to provide expressly that, if a person were entitled to claim damages for breach of a repairing covenant, this would not preclude him from recovering compensation under the Compensation (Defence) Act, 1939, for damage to the land. The inference from this is that an entitlement to any other class of claim for damages would debar the claimant from compensation. I believe a case was recently reported in *The Times*, where chattels were damaged in similar circumstances to the above, but I am unable to trace the report. PEG.

Answer.

We agree with the district valuer. It is difficult to see what right of action the owner had against the wrongdoers as the owners were not in possession. The goods were bailed to the local authority and they are liable in negligence : *see Blount* v. *War Office*, [1953] 1 All E.R. 1071, and are liable for damage to the stable of which they were also in possession.

4.—Criminal Law—*Fraudulent conversion—Rents collected by agent—Failure to account for net sums due to property owner.*

An estate agent has for some time past collected on behalf of various owners the weekly rents of dwellinghouses. It was the custom of the agent to pay the usual rates on behalf of such owners, charge his commissions on rents collected, and remit quarterly to the owners the balances in his hands together with accounts showing how the amounts remitted were arrived at. The agent has failed in some cases to render to the owners an account or remittance in respect of the quarter ending December 31 last, and in other cases for the same quarter has rendered accounts showing the balances due but failed to pay the amounts. Requests have been made by the owners to the agent for statements and remittances without response. What offence (if any) has the agent committed ? PAT.

Answer.

The offence, if any, is against s. 20 (1) (iv) (*b*) of the Larceny Act, 1916, for having fraudulently converted to his own use part of the money he had received for and on account of the landlord. It is, of course, necessary to satisfy the court by evidence that there was a fraudulent intent and not mere slackness or carelessness.

5.—Compulsory Purchase—*Subordinate interests—Notice to treat.*

My council have made a compulsory purchase order on land which is partly used by tenants as a builders' yard and partly as allotments (not being within the Allotments Act, 1950) and the order has been confirmed by the appropriate Minister. By arrangement with the council, the freeholder has served notices to quit upon the tenants, which notices expire on September 29 next. It has also been arranged that notice to treat will be served only upon the owner, who will presumably receive a price equal to the site with vacant possession, and that completion of the conveyancing formalities will be delayed until September 30 next, *i.e.*, the day after the notices to quit expire. The tenants were duly served with notice of the making and confirmation of the compulsory purchase order, as they held under agreements requiring six months' notice. On the basis of the proposed arrangements, it is not intended to serve the tenants with notice to treat. Can you confirm that the suggested action is correct, or alternatively give your reasons why you consider the tenants should be served with notice to treat ? POL.

Answer.

Tenants for a year or from year to year are not entitled to a notice to treat. Their compensation is assessable under s. 121 of the Lands Clauses Act, 1845, and a notice to treat served on them is ineffective unless it also requires possession under that section. The compensation payable to the owner is the value at the date of the notice to treat. Compensation under s. 121 is not payable unless the tenant be required to quit before the end of his term.

6.—Landlord and Tenant—*Purchase of houses by local authority—Increase of rent.*

The rural district council are contemplating the purchase of six houses erected in 1948/49 by a housing association for occupation by members of the agricultural population. If the transaction goes through the properties will be brought within the scope of the council's housing revenue account and the special exchequer subsidy which has been paid will continue to be payable but no rate contributions have in the past been made and the Ministry of Housing and Local Government state that, in view of this, they would not have to be made in the future. Your opinion is desired as to whether the houses would, subject only to the provisions of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act, 1951, be entirely free from the operation of the Rent Restrictions Acts so as to enable the authority, should the necessity arise, to increase the rents at present payable. E. N. W.

Answer.

We agree.

7.—Licensing—*Consent to proposed alterations—Right of licensing justices to hear police.*

It has been the practice, for many years, in a certain licensing district, that, when it is intended to make application to the justices for approval of plans of proposed alterations in licensed premises in accordance with s. 71 of the Licensing (Consolidation) Act, 1910, copies of plans of the proposed alterations are handed to the clerk to the justices and to the superintendent of police for the district at least one week before the hearing of the application.

On the hearing of the application the justices ask the superintendent, who has, in the meantime, visited the premises, for his views on the proposed alterations. The superintendent, thereupon, expresses his views to the justices on the proposals and often suggests such modifications thereto as he thinks will lead to the better management of the premises and to better and easier supervision by the police. The justices, in the past, have found this practice most helpful to them in deciding the applications and they have often acted on the superintendent's suggestions by requiring the plans to be modified.

The point has now been raised that it is not in order for the justices to hear the superintendent on the hearing of such applications.

Would you please give your opinion generally as to the position of the police on the hearing of such applications and, especially, as to whether it is in order for the justices to require copies of the plans to be given to the superintendent and for him to be heard at the hearing of the application, or should the justices, if they deem it advisable that the premises should be visited, visit the premises themselves. This latter course would be most inconvenient if a number of the justices are to make the visit, as the licensing district consists of a number of villages spread over a wide area and the majority of the justices themselves reside in rather remote parts of the district. M.T.P.E.

Answer.

Subject to the licensing justices placing no fetter on their discretion to give or to withhold their consent to the proposed plans, we have nothing to say in criticism of the procedure outlined by our correspondent.

It is well settled that licensing justices have a duty to inform themselves on any matter before them by hearing any person who has an interest in that matter, and the interest of the local police in matters affecting "better and easier supervision" is undoubted. (*See*, e.g., *Boulter* v. *Kent, JJ.* (1897) 61 J.P. 532; *R.* v. *Farnham, JJ.* (1902) 66 J.P. 579.)

It would not be a good ground for refusing consent that the applicant had omitted to comply with a requirement of the licensing justices that a copy of the plans should be supplied to the police.

8.—Local Government—*Council meeting—Sundays.*

Is it in order for a full meeting of an urban district council or a meeting of a committee of that council to be held on a Sunday? According to Part III of sch. 3 to the Local Government Act, 1933, the chairman of a council may call a meeting of the council at any time, but it is enacted by s. 1 of the Sunday Observance Act, 1833, that the meeting of any corporation, ecclesiastical or civil, on a Sunday is prohibited, and every matter transacted thereat is void. It appears that this Act was repealed as to municipal boroughs in England by the Municipal Corporations Act, 1882, s. 5, but this section of the Municipal Corporations Act was itself repealed by subsequent legislation, and the present position is, in my opinion, obscure. AUD.

Answer.

Section 5 of the Act of 1882, having done its work, was in the ordinary way repealed by the Statute Law Revision Act, 1898. This repeal did not (s. 11 of the Interpretation Act, 1889) revive the provision which s. 5 had repealed. Section 1 of the Act of 1833 is thus inapplicable to municipal corporations, but it applies to an urban district council, and the chairman can therefore not call a meeting for a Sunday, under the Act of 1933. The Act of 1833 does not apply to committees, not being corporate bodies, but for avoidance of question we should regard it as wiser not to hold a meeting on a Sunday of a committee of any local authority—certainly not of a committee exercising delegated powers of the council.

9.—Nuisance—*Crowing cocks.*

I have received a complaint on the crowing of cockerels—seven cockerels being kept at the rear of a small private dwellinghouse, and in close proximity to other dwellinghouses. There are no byelaws in force in this district to control noise from animals. Section 92 (1) (*b*) of the Public Health Act, 1937, would seem at first sight to cover the case, but the council are advised that this relates to the general conditions in which animals are kept, and not to noise and unsightliness. A. RIX.

Answer.

The nuisance sections of the Public Health Act, 1936, do not extend to noise. The birds here (or noisy animals) may produce a nuisance at common law, for which the person aggrieved can take civil proceedings. There has been a fairly common byelaw under s. 249 of the Local Government Act, 1933, dealing with the keeping of cocks but, outside a borough, such a byelaw could only be made by the county council.

10.—Private Street Works Act, 1892—*Premises leased to the Crown.*

It is a principle of the common law that statutes do not impose pecuniary burdens upon Crown property, unless the Crown is expressly named therein. Crown property is therefore not chargeable with private street works expenses, and I am advised that the exemption may extend to certain premises used solely for the purposes of the Crown.

I shall be obliged if you will inform me whether, in your opinion, a building owned by a Friendly Society which has been leased to the Ministry of Works for use as a Crown Post Office may be charged with private street works expenses. PAS.

Answer.

Yes, in our opinion. The premises are not owned and occupied solely for the purposes of the Crown within *Hornsey Urban District Council* v. *Hernell* (1902) 66 J.P. 613. They are so occupied but not so owned.

11.—Public Health Acts Amendment Act, 1907—*Urgent repairs to private street—Meaning of "danger."*

I shall be pleased if you will advise me whether you consider deep mud, churned up by the owner of lorries who is a frontager on a private street, constitutes "a danger to any passenger or vehicle" for the purpose of applying s. 19 of the above Act. PAM.

Answer.

What is "danger" in a particular case must, if disputed, be, in our opinion, a question of fact. We think the condition described could involve danger to a passenger if he has nowhere else to walk and, may be, to a vehicle.

12.—Public Health (Buildings in Streets) Act, 1888—*Other enactments—Space about buildings.*

In one small area of this urban district there is a public highway repairable by the inhabitants at large, the frontages to which have been developed by the erection of houses. Over a period of years at dates unknown a number of sheds and garages have been erected between the front main walls of the houses and the highway without any consent on the part of the council, and, in fact, it is not known just when they were erected but they seem to have accumulated over a period of years and now present a most undesirable appearance. Leading off from this public highway there is a *cul-de-sac* road, also a public highway but not repairable by the inhabitants at large, which has been developed in similar manner, and sheds and garages built between the front main walls of the houses and the highway.

My council are desirous of improving the appearance of the area and wish to be advised as to the action which can now be taken by the council to get rid of these erections in front of the main walls of the houses. My council first adopted building byelaws in July, 1938, and passed the town planning resolution under the 1932 Act on November 21, 1938.

It is assumed that some of the erections were placed in position before, but that others have been after, these dates, In the case of erections placed in position after the adoption of building byelaws, then it would be in contravention of the byelaw with regard to the provision of open space in front of buildings. It would appear that erections placed in position subsequent to the two dates referred to above should have been the subject of application for consent but no applications have been made. Also, no application or consent was given under the Public Health (Buildings in Streets) Act, 1888.

I should be glad to be advised as to whether my council can now take action either under (*a*) the Public Health Act, 1936, and the building byelaws; (*b*) the Town and Country Planning Act, 1947, or (*c*) the Public Health (Buildings in Streets) Act, 1888. I assume that certain time limits apply with regard to the taking of action under these three Acts of Parliament and I shall be pleased to have your observations thereon.

Is it now possible for my council to take proceedings under the Public Health (Buildings in Streets) Act, 1888, despite the long interval of time since the erections were placed in position? PUN.

Answer.

Under the Public Health (Buildings in Streets) Act, 1888, proceedings may be taken despite the lapse of time, but the middle paragraph of s. 3 precludes notice (and therefore summary proceedings) against a person who was not the original offender: *Blackpool Corporation* v. *Johnson*, (1902) 57 L.T. 28; *Mullis* v. *Hubbard*, (1903) 67 J.P. 281. There is a twelve month limitation of time for requiring the pulling down of buildings contrary to the byelaws under s. 65 (1) of the Public Health Act, 1936; *see* s. 65 (4). Action under s. 65 (5) seems heavy handed, and would involve questions about the time when each erection began.

Enforcement action under the Town and Country Planning Act, 1947, may be taken in appropriate cases under s. 23 of that Act within four years of the development.

13.—Rating and Valuation—*Recovery of general rate—Limitation.*

The Summary Jurisdiction Act, 1848, s. 11, provides that in the absence of special provision by Act of Parliament any information or complaint shall be laid within six calendar months from the time when the matter of such complaint or information arose. It appears that the demand need not be made within the year for which the rate was made: *Gill* v. *Mellor* (1923) 87 J.P. 190. It also appears that a new demand at a subsequent period does not give fresh rise of complaint (*Harpin and Sykes* (1884) 49 J.P. 148). The question therefore arises whether a general rate can be recovered more than six months from the date of demand. A. H.

Answer.

The general rate, like the old poor rate (and unlike some other rates) is not recoverable as a civil debt under the Magistrates Courts Act, 1952, but by a special procedure of its own. There is no "complaint," and s. 104 of the Act does not apply. There is no limitation on the time within which the proceedings may begin: *Gill* v. *Mellor*, *supra*: *Sweetman* v. *Guest* (1869) 32 J.P. 212.

14.—Road Traffic Acts—*Abnormal indivisible loads—Treating vehicle of normal construction as a special type vehicle.*

An articulated vehicle was being driven on a road and the trailer unit was of the low loader type fitted with four wheels (pneumatic tyred) in line transversely and not more than two feet apart. The unladen weight of the unit was ten tons five cwts. and it complied in all respects with the Motor Vehicles (Construction and Use) Regulations, 1951. It was laden with an excavator, and when weighed it was found that the gross laden weight was 24 tons 15 cwts. 3 qrs., the drawing unit being 14 tons 3 qrs. and the rear wheels of the trailer 10 tons 15 cwts.

There is no evidence that this vehicle is used for any purpose other than conveying abnormal indivisible loads, and the load which in fact was carried when seen was such a load. I should be glad of your opinion as to whether this vehicle can be regarded as a special type vehicle as it has been argued that because its width did not exceed 7 ft. 6 ins., it cannot be classed as a special types vehicle. In short, can it be said that a vehicle which, when carrying an abnormal indivisible load, but which complies in all respects with the Motor Vehicles (Construction and Use) Regulations, 1951, is not a special type vehicle. JAT.

Answer.

We consider that unless the vehicle is specially designed and constructed for the carriage of abnormal indivisible loads it cannot be treated as a vehicle of a special type. (*See* reg. 14, the Motor Vehicles (Authorization of Special Types) General Order, 1952). The implication from the question appears to be that this vehicle was not so specially designed and constructed.

15.—Salmon and Freshwater Fisheries Act, 1923—*Forfeiture of rods, etc.*

From time to time water bailiffs come across persons fishing without licence, contrary to s. 63 of the Salmon and Freshwater Fisheries Act, 1923, and, as well as taking a statement from such persons, the bailiffs also seize the rod and line. Such an instrument is taken so as to strengthen the evidence for the prosecution. At times, however, the prosecution's solicitor is slightly embarrassed when such action has been taken in making a decision as to whether to proceed or not. At all times after conviction the rod and line is returned to the owner. Licensees (who subsequently take out licences) complain that this practice should cease, as it deprives them of at least a fortnight (or even a month in country cases) of fishing in waiting for the appropriate hearing. In some cases undoubtedly there is hardship. The right to seize any instrument is conferred upon a bailiff by s. 67 (*d*) of the Act, but the point arises whether such an instrument, in this case the rod and line, is automatically forfeited on conviction under s. 74 of the Act, subject of course to its being disposed of as the court may direct.

I shall be glad, therefore, to receive your valued opinion on the following:

(1) In a s. 63 offence, do you think it necessary from an evidentiary point of view to seize the rod and line;

(2) If so seized, is the forfeiture under s. 74 automatic on conviction, and can the court order the return of the rod and line under its discretion;

(3) If the prosecution's solicitor advises against a prosecution, would any liability be incurred in respect of the detention of the rod and line, which would then be returned direct by the water bailiff and not by reason of an order of the court as in (2) above? PARM.

Answer.

(1) It is not necessary but, in our opinion, normally advisable.

(2) The person convicted is liable to have the rod and line forfeited, but the justices are not bound to impose the forfeiture.

(3) No. The seizure at the outset is authorized by statute, if the instrument is one which could be forfeited upon conviction.

16.—Water Act, 1945—*Water rate—Recovery—Limitation of time.*

By the Water Act, 1945, s. 38, water rates are recoverable as a civil debt and it therefore seems clear that proceedings must be commenced within six months of the date of demand. I should be glad if you can quote any authority, either by case law or statute, for saying that proceedings for water rate may be commenced more than six months from the date of demand. B. H.

Answer.

As you say, water rates are recoverable as "civil debts," *i.e.*, by complaint under the Magistrates Courts Act, 1952, s. 50. The limit imposed by s. 104 of that Act applies. As regards "case law," you may have *Metropolitan Water Board* v. *Bunn* (1913) 77 J.P. 353, in mind but that was a case under a special Act. As regards statute, *see* subs. (1) and (7) of s. 38 of the Act of 1945.

ESSEX MAGISTRATES' COURTS' COMMITTEE

Appointment of Principal Assistant

APPLICATIONS are invited for the post of Principal Assistant in the office of the Clerk to the Justices at Romford. Applicants must have a thorough knowledge of the work of a Justices' Clerk's Office and be able to act as Clerk of the Court when necessary. The commencing salary will be between £760 and £815 a year.

The appointment, which is superannuable, will be subject to one month's notice on either side, and the successful candidate will be required to pass a medical examination.

Applications, stating age and giving particulars of education and experience, together with copies of three recent testimonials, must reach the undersigned not later than August 31, 1953.

W. J. PIPER,
Clerk of the Magistrates' Courts Committee.

Office of the Clerk of the Peace,
Tindal Square,
Chelmsford.
August 5, 1953.

LANCASHIRE No. 5 COMBINED PROBATION AREA COMMITTEE

Female Probation Officer

APPLICATIONS are invited for the appointment of a whole-time Female Probation Officer in the above area which embraces the County Borough of Burnley, the Borough of Nelson and the Petty Sessional Divisions of Burnley, Colne and Rossendale.

Applicants must be not less than 23 nor more than 40 years of age except in the case of serving officers. The appointment and salary will be subject to the Probation Rules and the successful candidate will be required to pass a medical examination.

Applications, stating age, qualifications, experience and present salary (if already serving), accompanied by not more than two testimonials, should reach me not later than August 26, 1953.

THOMAS NOONE,
Clerk to the Committee.

Borough Justices' Clerk's Office,
Town Hall,
Burnley.

COUNTY BOROUGH OF SOUTHEND-ON-SEA

Assistant Solicitor

APPLICATIONS are invited for this appointment. Salary £1,050 ×£50—£1,250 p.a. (less Superannuation contributions).

The appointment is subject to the Conditions of Service of the Joint Negotiating Committee for Chief Officers of Local Authorities.

Applicants should have had experience in conveyancing and advocacy and in Town Planning work.

Applications, with names of two referees, should reach the undersigned by September 10, 1953.

ARCHIBALD GLEN,
Town Clerk.

Amended Advertisement.

COUNTY BOROUGH OF HUDDERSFIELD

Assistant Solicitor

ASSISTANT SOLICITOR required in office of Town Clerk. Experience in advocacy required, local government experience an advantage. Salary within Grade A.P.T. VIII (£760 to £835 per annum) according to experience.

Applications, stating age, whether married or single, giving full details of experience, qualifications and present appointment, with copies of not more than three recent testimonials, and endorsed "Assistant Solicitor," should reach me not later than September 7, 1953.

HARRY BANN,
Town Clerk.

Town Hall,
Huddersfield.

KENSINGTON B.C. require Assistant Solicitor, salary £625 p.a.—£785 p.a., plus London Weighting, according to experience. Previous L.G. experience not essential. N.J.C. Conditions. Applications stating age, date of admission, academic qualifications if any, experience, etc., with names of two referees to reach the undersigned by August 31, 1953.

T. WARING SAINSBURY,
Town Clerk.

Town Hall,
Kensington, W.8.

BOROUGH OF ROYAL LEAMINGTON SPA

Deputy Town Clerk

APPLICATIONS are invited from solicitors with local government experience. Grades A.P.T. IX and X.

The commencing salary will be fixed according to qualifications and experience, and housing accommodation will be made available.

Further particulars can be obtained from me. The closing date for applications is September 4, 1953.

JAMES N. STOTHERT,
Town Clerk.

Town Hall,
Royal Leamington Spa.
August 12, 1953.

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